THE Compleat Justic

Being an exact and compend ous Collection out of such as have tre ed of the Office of Justices of the Peac but principally out of Mr *Lambert* Mr *Crompton*, and Mr *Dalton*.

Now amplified, and purged from sundry Errors which were in former Impressions thereof.

Whereunto are added

Such new Acts and Ordinances of Parliament as have been since published to this present time, touching that office.

Together with

The Resolutions of the Judges of Assises in the yeare 1633.

Legis Præmio, aut panâ vita moderatur Humana. Isiodor. lib. 5. Etymolog.

LONDON.

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To the Reader.

Courteous Reader,

THe great Antiquity of Iuſtice of Peace in this nation ſpeak not onely the manifeſt Utili ty, but alſo the neceſsity of that weigh ty office, which hath been eſtabliſhe and enlarged by the grave wiſdom of o Anceſtors by many ſucceeding Acts a Ordinances of Parliament as you m perceive by the peruſall of this inſuin Enchiridion, and although in the forme Impreſsions thereof, the Reader hath be much injured by corrupt Editions, yet this preſent Tract you may be ſecur confident of very few or no Errors as

in regard it hath been revised with ma-ture, and elaborate diligence, and there-fore now no such cause of discouragement for the buying of this beneficiall Collecti-on as formerly; you shall finde in it much new matter added, and also all such Acts and Ordinances of later times published as any ways concern the said office, faith-fully abridged and digested under their proper Titles.

Abjuration.

THe abjuration of a ſeditious Sectary "ought to be made in open quarter "Seſſions of the Peace, and there to "be entred of Record in the Rols of "the Seſſions by the Clerk of the "Peace, 35 *Eliz. cap.* 1. *&* 2. *Lamb.* 615.

Abjuration of a ſeditious Sectary made in open Qu. Seſſions muſt be certified to the Juſtices of Aſſiſe at the next Aſſiſes. 35. *El.* 6. 1. *Lam.* 590.

Juſtices of Peace cannot arraigne a man upon his abjuration for felony, *Lam.* 551.

Vide plus Recuſants.

Abſolve, *Vide* Treaſon.

Acceſſary and Principall.

Who ſhall be an acceſſary before the fact.

1. Abetter, Procurer, or Conſenter to a felony. *Dal.* 292, 293. *Cro.* 41. a. *nu.* 1. *Lam.* 286. 287, 288. *Stamf.* 44. a.

2. Commander of an evil act is acceſſary to the felony proceeding thereof: as if death proceed of beating or robbing. *Lamb.* 286. *Dal.* 293. *Cro.* 43. a. *nu.* 34.

3. Commander of one felony, whereby another enſueth, is acceſſary to the ſecond: as, *A.* commandeth *B.* to fire the houſe of *C.* and thereby many are fired, *Lam.* 286, 287. *Cro.* 43. b. *nu* 36.

4 Commander of a felony, though it be executed in another faſhion, time, and place or manner then was commanded, *Lam.* 286, 287. *Cro.* 42. a. *nu.* 14. *Dal.* 293.

" 5 When a ſtatute ordaineth an act to be treaſon or felony, which was not ſo at the common law, " and ſaith not, that the abetters, aiders, comforters, " or conſenters ſhalbe felons, yet it ſhalbe felony in " them, *Dal.* 292, 297. *Lam.* 285.

Who not.

The felony commanded is executed on another perſon, the commander is not acceſſary, *Lam.* 287, 288.

The commanded performing more then was commanded, committeth felony, the commander is not acceſſary, *Lam.* 287.

The commander of one felony to bee done to a man, is not acceſſary to another kind of felony committed againſt the ſaid party: as, one counſelled to poyſon *A.* giveth it to *A.* and *B.* the counſeller is not acceſſary to the murder of *B.* *Lam.* 287, 288.

" Commander or counſeller to a fact counter-" mandeth it before it be done, *Lam.* 289. *Dal.* 293. " *Cro.* 42. a. *nu.* 16.

The knower of a felony without conſenting, *Lam.* 289. But ſuch concealement is fineable. *Cro.* 41. b. *nu.* 8. *Dal.* 294.

One not party nor privie who is preſent at a felony, and doth not diſturb it; nor purſue the felon, is fineable, *Lam.* 289. *Dal.* 292.

Acceſſary after the fact.

Receiver of a felon, knowing him to be one, and ſuffering him to eſcape; whether before or after attainder, *Crom.* 41. a. *nu.* 1. *Dalt.* 294.

Re

Receiver or comforter of a felon with an evil intent, *Lam.* 289. *Dal.* 294.

Arrester of a felon by hue and cry taketh the goods, and letteth him go, *Lam.* 290.

One pursuing a felon for his own goods, taketh money of him not to give evidence against him, whereby he is freed, *Lam.* 290.

Receiver or comforter of an accessary, knowing thereof, *Lam.* 291. *Dal.* 297.

Receiver of ones brother, knowing him to be a felon, *Lam.* 291. *Dal.* 295.

Receiver of an approver or one attainted, or outlawed of felony, knowing thereof, *Lam.* 293.

To harbour a felon attainted in the same County, *Cro.* 43. a. *nu.* 31. *Dal.* 294.

But *Lamb.* 293. holdeth it reasonable that he first have knowledge of such a record.

Receiver of stollen goods, knowing them to be stollen, *Cro.* 41. b. *nu.* 3. many authorities remembred: but 42. a. *nu.* 17. he saith, that he must receive the felon also, *Vide Cro. &c. Vide Crom.* 42. b. *nu.* 23. & 43. b. *nu.* 37. *Dalt.* 295.

Who not.

A sutour by word or writing for the deliverance of a felon, knowing thereof, *Lamb.* 289, 290. *Dal.* 294.

Pursuer of a felon for his own goods, taketh them again, and letteth him go, *Lamb.* 290. *Dal.* 296.

Reliever or receiver of one bailed for felony, *Lam.* 290. *Cro.* 42. b. *nu.* 25, *Dal.* 294.

Buyer of stollen goods, knowing thereof, *Lamb.* 291. unless he receive the felon, *Crom.* 42. a. 17. *Dal.* 295.

The wife receiving the husband knowing him to be a felon, *Lamb.* 291. 292. *Dal.* 295.

Receiver of the striker of the stroke, after the

ſtroke, and before the death, *Lamb.* 292.

After acquittall as principall, one may be arraigned as acceſſary after the fact, but not before the fact, *Lamb.* 292, 557. *Crom.* 42. b. *nu.* 18.

One may be acceſſary: as, if one felonioufly receive or comfort an acceſſary, *Dal.* 297. *Lamb.* 291. *Cro.* 42. b. *nu.* 24.

Who ſhall be ſaid a Principall.

Thoſe of the ſociety of a felon, and preſent at the fact, though not actors, *Stamf.* 40. a. *Cro.* 22. a. *nu.* 10. 15. *Dal.* 291.

An abetter, procurer, or receiver, of a woman, knowing her to be taken away contrary to the Statute, 3. *H.* 7. *cap.* 2. *Lam.* 285.

Acceſſary in one County to a felony done in another County, may be indicted where he becometh acceſſary, 2. & 3. *Ed.* 6. *ca.* 24. *Dal.* 297.

It is no good indictment againſt an acceſſary, to ſay, that he received the goods, without ſaying he received the felon, *Lamb.* 500. 291.

Though an acceſſary cannot be proceeded againſt until the Principall be tried, yet if a man upon ſubtility ſet a madman by ſome deviſe to kill another, and he doth it, now though the madman be excuſed by law, yet the Inciter ſhall be puniſhed as Principall though he be abſent. *Dal.* 359.

Acquittall, *Vide* Enditements.

Additions.

In every indictment or preſentment where outlawry lyeth, the eſtate of degree or myſtery, the town County, hamlet, or place where the indicted dwelleth are to be added, 1. *H.* 5. *ca.* 5. *Lam.* 488.

Whi

What ſhall be a good addition of degree or eſtate.

Duke, Marqueſſe, Earle, Vicount, Archbiſhop, Biſhop, Baron, Knight, Serjeant at law, Eſquire, Gentleman, Alderman, Widow, ſingle Woman, Dean, Archdeacon, Parſon, Doctor, Clerk, Pariſh-clerk, *Lam.* 488, 489, 490. *Crom.* 96. 5 *E.* 4 49. *Dyer.* 203.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertain, as Farmer, Servant, Butler, Chamberlain, *Lam.* 489. *Cro.* 109. a. 6. *nu.* 8.

What ſhall be a good addition of myſteric.

Chop church; Merchant, Grocer, Mercer, Tailor, Broker, Husbandmen, Hoſtler, Lighterman, Labourer, Waterman, Spinſter, *Lam.* 489.

What not.

That which is no myſtery nor degree, as Citizen; nor any unlawful trade; as Extortioner, Maintainour, Vagabond, Heretick, Dicer, Carder, &c. *Lam.* 489.

Addition of degree or myſtery muſt be as the party then is, But addition of the place may be ſuch whereof he was, *Lam.* 489. 490. *Additions Br.* 41.

Addition of degree and myſtery muſt be knit to the proper perſon, *Lamb.* 489.

The Statute of the 1. *H.* 5. *cap.* 5 of additions, doth not extend to informations, *Lamb.* 510.

What shall be a good addition of place.

Either of the town or Parish, if they be both of one name, *Lam.* 490.

Of the Town onely, where there be two Towns in one Parish, *Lamb.* 490.

Either of the Town or Hamlet, if there be two Hamlets in one Town, *Lam.* 490.

Of the Town, if the person be of a place known within the Town, *Lam. ibid.*

Addition must comprehend the County, Town, or Hamlet, whereof the party is or was, *Lam. ibid.*

What not.

Of the place where he is Parson, without naming the place of his aboad, *Lam. ibid.*

Affray and Affrayers.

An affray may be without word or blow: as, to be armed with armour or weapon not usually born. *Lam.* 126.

"It is no affray properly unless there be some "weapon drawn, or stroke given, or offered to be "given, or some such attempt, *Dal.* 34.

Constable or other Officer may lay no hands on any intending to make an affray, till weapon drawn, or offer of blow, *Dal.* 34. *Lam.* 132. *Cro.* 146. a.

"An affray is in a house, and the doors are shut, "the Constable may break into the house to see the "peace kept, *Dal.* 34.

"If the Affrayers flie into another house, into a "Franchise or other County, the Constable upon "fresh suit may pursue them, but cannot meddle out "of the County but as a private man, *Dal.* 34.

Affrayer may be commanded by the Constable or other Officer to avoid upon pain of imprisonment: And if the affray be great, they may make proclamation, and command the parties to prison for a small

ſmall time, whom he muſt deliver without fine, *Lam.* 132 *Dal.*34.

"After an affray, a Juſtice of Peace may commit "the offenders till they find ſureties (if the affray "were in his preſence) if out of his preſence, he may "ſend his Warrant, and commit them till they do "find ſureties. *Vide* Surety of the peace.

"If a man be dangerouſly hurt, and the wound "mortall, although the Juſtice of Peace may bail the "offender, yet it is the ſafeſt way to commit him till "there appear ſome hope of recovey, *Dal.*35.

"If an aſſault or affray be made upon a Juſtice or "Conſtable, they may defend themſelves. The Ju- "ſtice may cauſe them to be arreſted, the Conſtable "may commit them to the Stocks, & after carry them "before a Juſtice of Peace, *Dal.*35. *Vide* Peace.

"An affray is in a corporate Town (which hath "Juſtices within it ſelf) while the Seſſions be held "there: the Juſtices of Peace ſhall not meddle "there; but it is otherwiſe at the Aſſiſes, *Cro.*146.b.

Every private man preſent at an affray, aſſault, or battery, may part them, ſtay them that come to the affray with weapon, ſtay the affrayers till the heat be over, and then deliver them to the Conſtable; but may not commit them, unleſs one of the affrayers be in peril of death. And if he flie into a houſe, upon Hue and Cry break open the houſe, and take him, *Dal.*33. *Lamb.*131. *Cro.*146.a. *Vide plus* Conſtable.

Agnus Dei, Croſſes, Beads, &c.

If any perſon, to whom any of theſe, or any other ſuperſtitious things from the See of Rome or authority thereof be offered, do diſcloſe the name, dwelling, or place of reſort of ſuch offerer or deliverer, to any Juſtice of Peace of the ſame Shire, the ſame Juſtice muſt within fourteen days next after declare the ſame to ſome one of the Privy Councel, on pain of Pre-

munire, 13. *E.* *cap.* 2. *Dal.* 105. *Vide plus* Treaſon, Miſpriſion, & Premunire.

Alehouſes.

Two Juſtices, one being of the Quorum, may licenſe one to keep a common Alehouſe, taking bond with good ſurety for good rule to be kept in his houſe, 5 *Ed.* 6. *cap.* 25. And an Alehouſe-keeper put down "by two ſuch, cannot be allowed by any other two, "but in open Seſſion, *Dal.* 29.

John Brokey of &c. Inholder convicted for letting his Beer to farm to his Tapſter for 14 ſhillings the barrel, he paying but 8 ſhillings to the Brewer: *Ord.* 2. *Sept.* 9 *Iac. Seſ. Pa. Mid.*

Thomas Byworth ſuppreſſed for keeping an Alehouſe, becauſe it appeared to the Court that he was a ſteel-forger, which is a good trade ſufficient to maintain him: *Ord. Seſ. Pa. Mid.* 26. *Jul.* 8. *Car.*

A man convicted the third time for ſelling Ale, or Beer of his own brewing, and not compounding with the Commiſſioners of Exciſe, is puniſhable as an unlicenſed Alehouſe-keeper, and to be for ever diſabled to keep ſuch a common houſe: *Act.* 14 *Aug.* 1649.

Twelve pence is given to the two Juſtices of Peace, for taking a recognizance of him that is allowed to keep a common Alehouſe, 5 *Ed.* *cap.* 25. *Lamb.* 307. Condition of a recognizance for an Alehouſe, *Lamb.* 354.

He that keepeth an Alehouſe of his own authority, without licenſe of two Juſtices, one being of the Quorum, or after prohibition of two ſuch Juſtices, may by two ſuch Juſtices be committed to priſon for 3. days without bail, & till he be bound with two ſureties to keep none after, *Dal.* 29 *Lamb.* 354. *Vide* "Stat. 3 *Cro.* 3. which alloweth ſelling of beer or ale "in fairs (though unlicenſed:) As alſo the puniſh- "ment of perſons unlicenſed.

In

Information of the offence and recognizance taken by two Justices, one being of the Quorum, of an Alehouse kept against the Statute of 5 *Ed. 6. cap.* 25. and certified by them to the Sessions, is a sufficient conviction without further trial at the Sessions: and they may asses the fine of 20. shillings without making process against the offender, *Lam.* 572.

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby he hath forfeited his recognizance, they may award process against him, to shew why he should not forfeit his recognizance. Quære what process, *Lam.* 524, 529.

Enquiry whether Alehouse-keepers having forfeited their recognizance, ought to be at the Quarter Sessions, 5 *Ed.* 6. 25.

Fines imposed by the Stat. of 5 *Ed. 6. ca.* 25. concerning Alehouses cannot be altered by the Justices of Peace, 5 *Ed.* 6. *c.* 25. *Lam.* 578.

Justices of Peace must certifie the recognizance taken for Alehouses at the next Quarter Sessions after they are taken, or lose 5 Marks. 4 *Ed.* 6. *ca.* 25.

Any directly or indirectly selling Ale or Beer unto any Alehouse-keeper not licensed, more then for his necessary ptovision for his household, shall lose after the rate of 6. shillings 8. pence for every barrel. For the levy and disposall of the penalty, see *Victuals*, 4. *Iac.* 4.

Alehouse-keeper or Inn-keeper suffering any tipling contrary to the 1 *Iac. ca.* 9. 4. *Iac. ca.* 5. 7 *Iac. ca.* 10. 28 *Iac. cap.* 7. forfeiteth 10. shillings, and every such tipler 3. shillings 4. pence; for not ability of payment the Alehouse-keepers, &c. to be commited to the Gaol till the penalty be payed, which penalty is to be payed within 6. days, or the distress to be sold, 1 *Iac. cap.* 9. the tipler to the Stocks for 4 hours, 4 *Iac.* 5 *Dalt.* 28. 1 *Car.* 4.

Justice of peace hath power in those cases to minister an oath to witnesses, wherein oath of one wit-

neſs is ſufficient, 1 *Car. ca.* 4. 1 *Jac.* 9. 21 *Jac.* 7.

The Conſtables and Church-wardens neglecting to levie, or to certifie the cauſe thereof by twenty days to the Juſtice that granted the diſtreſs, do forfeit 40 ſhil. in default thereof to be ſent to the Gaole till payment be made. 1 *Jac. ca.* 9. *Dal.* 28. *Cro.* 78 *a.*

Alehouſe-keepers and Inne-keepers ought to lodg travellers. *Quære* how he is compellable, and ſee the opinion of Sir *James Ley* chief Juſtice at ſent Aſſiſes, 1622. *Dal.* 28. His opinion then was, That an Inne-keeper or Alehouſe-keeper offending herein might be indicted, fined, and impriſoned; or elſe the party grieved might have his Action upon Caſe againſt them reſpectively, *Crom.* 50. & 4 *H.* 7 22.

"No Inne-holder, Alehouſe-keeper, or other Victualler ſhall be compelled to ſell victuals to others, or to have lodging, except the party firſt pay "ready money, *Dal.* 28. *Cok. lib.* 9. *fol.* 87. *b. Brook. act.* "*on ſur le caſe* 76.

"Selling of leſs then a full Ale-quart of beſt Beer "or Ale for 1 *d.* and of 2 quarts of ſmall for 1. *d.* "upon oath of one witneſſe the penalty is 20 ſhill. "1 *Jac. ca.* 9. 4 *Iac.* 5. 21 *Iac.* 7 *Dal.* 26.

"Any tipling in any Inne, Alehouſe, or Victualling houſe, whereſoever his habitation be, forfeiteth "3 ſhil. 4 d. 21 *Iac ca.* 7. *Dal.* 29.

"A feme covert keepeth an Alehouſe, and ſelleth "Ale, &c. without licenſe, contrary to her husbands "will, the husband is puniſhable, *Dal.* 30.

"The voluntary confeſſion before one Juſtice of "Peace of any offender againſt the Statute of 1 *Iac.* "*c.* 9. or 4 *Iac. c.* 5. is ſufficient to convince the party "offending. And after confeſſion, the oath of the "party confeſſing is proofe againſt any other offending at the ſame time, *Dal.* 26. 21 *Ia. c.* 7.

"Alehouſe-keepers are diſabled to keep Alehouſe "for three yeers after,

1. If they ſuffer tipling, *Dal.* 31.

2. If

2. If they sell not a quart of the best, and 2 quarts of small Beer or Ale for a penny, *Ibid.*

3. If they be convicted by indictment at the Assises, Sessions, or Leet, for being drunk, 4 *Iac. ca.* 5. or before one Justice upon oath of one witness, 21 *Iac c.*7.

4. Continue drinking in another Alehouse, 7 *Iac.* 10. 4 *Iac.* 5. *Dal.*32. *Vide plus* Victuallers confession.

In all these cases if he be licensed again within 3 yeers, such license is void, and he to be punished as victualling without licence: *Dal.*32.

If any unlicensed Alehouse-keepers be convicted by the view of any Justice of the Peace, confession of the offender, or oath of two witnesses, he loseth 20 shill. to the use of the poor of the Parish, to be levied by way of distress by warrant from the Justice of Peace convicting, and within three daies to be sold, 3 *Car. ca.*3.

Where there is no sufficient distress or non-payment within six daies after conviction, the offender is to be openly whipped as the Justice of Peace shall limit, 3 *Car. c.*3.

The Officer refusing or neglecting to execute the Justice his precept, is to be committed to the Gaole, untill he doe or procure the offender to be whipped, or pay 40 s. to the use of the poor of the said Parish, 3 *Car. cap.*3.

The second offence is commitment to the house of Correction for a moneth, *Ibid.*

The third offence is to remain in the house of Correction till he be delivered at the general Sessions *Ibidem.*

He that is punished by the Act 3 *Car.*3. not to be punished by the statute, 5 *Ed* 6 *cap.*25. *& è contr.*

Any person that shall be tipling in any Inne, Taverne, or Alehouse, Tobacco shop, or Victualling-house, or receive any such person (except upon cause

to

to be allowed) or shall grinde any Corn, &c. shall forfeit 10 s. to be levyed by distress and sale of the offenders goods, and restoring the overplus to the party, and for default of such goods by putting the party six houres in the stocks. A penalty of 5 l. upon every Justice or head Officer who shall neglect the execution of this Law upon proof to the Chiefe Baron and Judges of Assise, and 20 shil. upon a Constable or other inferior Officer. The said Act to be given in charge every Assises and Sessions, and to be read every first Sunday in *March* in the morning; Treble damages given to every person wrongfully fined for any thing done by vertue of this Act: *Act 9. April.* 1650.

Alias dictus, *vide* Endictment

Alien and his tryall, *vide* Trial.

Allegeance, *vide* Supremacie.

Amerciaments.

The owner of a beast, knowing it to be harmfull, and not restraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King, *Lamb* 239. *Cro.* 24. *nu.* 45. *Dal.* 238.

Offenders in gathering more amerciaments then are in their lawful estreats, to be convicted by two Justices, one to be of the Quorum, appointed by the Custos Rotulorum, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffs, 1 *H.* 7. *cap.* 15.

Estreats of amerciaments must be by Indenture between the two Justices (appointed for oversight of Sheriffes bookes) and the Sheriffe or Under-Sheriffe under their seales; or else the Sheriffe to lose 40 s. 11 *H.* 7. *ca.* 15.

No amerciament for default of appearance, when

this

the Sessions are not summoned by precept, *Lam.*381. or when the summons is at one place, and kept at another. *Ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them, *Lam.*384.

Justices of Peace cannot amerce their fellow for absence from the Sessions; but a Justice of Assise may amerce a Justice of Peace for his absence from the Giol-delivery, *Lam.*385.

Clerke of the Peace, Coronors, Sheriffes, Bailiffes of Franchises, Constables of Hundreds, may be amerced for default of appearance at Sessions. *Lam.*395.

Amerciaments of Jurors for concealment, *Vide* Jurors, *Lam.*400,401. 3 *H.*7.*ca.*1.

Appearance.

Recognizance taken for the peace against all the Kings people, and to appear at the next Sessions by a Supersedeas out of the Chancery, testifying Surety found there against all the kings people for ever, will discharge the appearance of the next Quarter Sessions. Otherwise it is, if it be but until a day certain, *Lam.* 112. *Dal.*173.

Who shall be amerced for default of appearance, and who not, *vide* Amerciaments Release.

Appeachment, *vide* Approvers.

Appeale.

Justices of peace can take no appeale of any felonie *Lam.*550. *Stamf.*65. a *quære tamen.*

Appeale of robbery, *vide* Attainder.

Apprentices.

Apprentices.

One thought fit to be bound as an Apprentice, upon complaint made, and refusing to be bound, shall be committed till he will be bound, 5 *El.* 4. *Dal.* 78.

Upon complaint of an apprentice, one Justice may take order betwixt his master and him, and for want of conformity in the master, may bind him to appear at the quarter Sessions, *Dal.* 78. and to be discharged by foure Justices. If default be in the apprentice, it seemeth one Justice may send him to the house of Correction. *Dal* 78.

Assent of two Justices is sufficient to the Churchwardens or Overseers, or the most of them, to bind as apprentices the sons of poor parents, not able to keep and maintain them till 24 yeers of age, or their daughters till 21 yeers of age, 39 *El ca.* 3. 43 *El. cap.* 2. *Dalt.* 83. *Lamb.* 331. 21 *Jac. c.* 28. continued by 1 *Iac. c.* 25.

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by the Corporation, and in Towns not Corporate by the Parson or Vicar, Constable, Churchwarden, and Overseers for the time being, or most part of them, the same to be according to the will of the Giver: and any of the disposers forbearing and refusing to dispose of the mony, whereby it is not disposed, shall lose 3 l. 6 s. 8 d. one moytie to the poor of the Parish, the other to the Iuformer, 7 *Iac. cap.* 3.

Disposers of such money given for apprentices, are to take bond with two sureties of such master or mistres, for such money as they shall so receive, for the repayment thereof at the end of 7 yeers, or 3 moneths after, 7 *Iac. c* 3 Or if the apprentice die within 7 yeers, then to repay the money within one yeer after such master or mistres death, 7 *Iac. c.* 3.

The

The master or mistress dying within seven yeers, the disposers are with the said money to put out the said apprentice to some of the said trade, to serve out the residue of his 7. yeers, *Jac. cap.* 3.

Money given for putting forth apprentices, is to be disposed within three moneths after the receit, *Ibid.*

None above 15. yeers old are to be placed by the disposers, and those to be of the poorer sort; and for want of such they may choose others of the Parish next adjoyning, *Ibid.*

Disposers of money for apprentices are to accompt before two Justices next adjoyning yeerly in Easter week, or within a moneth after: and within ten days after such accompt made, must deliver all such mony and bonds remaining in their hands, to such as succeed in their rooms, *Ibid.*

He is no apprentice if he be not retained by Indenture and by the name of an apprentice expressly, *Cro.* 185. b.

Breakers of trust for disposing mony given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within 3. moneths, and the party grieved by an act of the Commissioners is to relieved upon his Bill in Chancery, 7 *Jac. cap.* 3.

Certificate to the head-officer of the City or Borough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier, may dispend 40. shil. freehold, must be under the hands and seals of three Justices where the land lieth, 5 *El. cap.* 4.

Apprentice is to be discharged by four Justices in open Sessions, *Dal.* 79.

The discharge of an apprentice is to be inrolled by the Clerk of the Peace, 5 *El. cap.* 4. *Vide plus* Labourers.

A master putteth his apprentice into apparel, he cannot take it away, though he part with his apprentice, *Dal.* 96.

Every

Every houſholder having half a plowland in tillage may take an apprentice betwixt the age of 10. and 18. to ſerve in husbandry, which muſt be by Indenture, 5 *El. cap* 4.

Approvers or Appeachers.

Gaoler, keeper, or under-keeper by pain compelleth his priſoner to become an appeacher of others, it is felony, 14 *E.* 3. *cap.* 10.

Juſtices of Peace can take no appeal of an approver, *Lam.* 550. *Stamf.* 144. a. *Dal.* 320.

One felon accuſeth another before the Juſtices of Peace; that they may take his confeſſion and reprieve him, and ſo proceed againſt the other, *Lam.* 551.

Archerie.

"Juſtices of Aſſiſe, Gaol-delivery, and of the "Peace, and Stewards of Leets have power to en- "quire, hear, and determine of the Stat. 33 *H.* 8. *c.* 9. "and alſo by their diſcretion examine all perſons, "lacking and not having bows, ſhafts, and arrows, "according to the form of the ſaid Statute, *viz.* being "under 60. yeers, and have not in his houſe bow and "arrows, or have not uſed ſhooting. And every man- "child betwixt 7. and 17. yeers of age, not having "a bow and two ſhafts; and above 17. yeers, four "ſhafts, he loſeth for every moneth 6. ſhill. 8. pence "*Lam.* 481 33. *H.* 8. *cap.* 9.

Armour.

Any (except the Kings Officers and their company doing their ſervice) riding or going armed, or bringing force in affray of the people, are to be impriſoned, and loſe their armour, 2 *E.* 3. *cap.* 3. *Dal.* 35 *Cro.* 76. a.

Juſtices

Justices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon inquiry by the Judges of Assise, are to be by them punished, 2 *Ed.* 3. *cap.* 3.

The counterpane of the Indenture of armour to be kept by the Clerk of the Peace, 4. & 5. *Ph.* & *M. cap.* 2.

The Statute 4. & 5. *Ph.* & *Ma.* concerning keeping of horses and armour, with the penalties thereof, are repealed, 1 *Iac. cap.* 25.

Armour and Munition of a Recusant convicted, being in his own possession, or at his dispose, other then such as shall be thought meet for the defence of his person and house, by warrant of four Justices at the Quarter Sessions are to be seised and kept at such place as the four Justices at the Sessions shall appoint, at the cost of the owners; and they, concealing or disturbing the delivery of it, lose the armour and munition, and by warrant from any Justice of Peace, to be imprisoned 3. moneths without bail, 3 *Iac. ca.* 5. Recusant having his armour seised, is to be charged with such armour and horse, as he and others of his Majesties subjects shall be commanded to serve with at muster, 3 *Iac. cap.* 5.

Any Justice of Peace may arrest any (except the King officers, and such as do him service) that go armed, and bind them to the peace, or good behaviour, *Cro.* 76. a. *Dal.* 30. *Lam.* of Const. 13.

A Justice of Peace may cause weapons to be taken from prisoners brought before him, *Dal.* 36.

No servant in husbandry, artificer, victualler, or labourer, shall wear sword or dagger, 12 *R.* 2. *c.* 6. *Dal.* 36. *Cro.* 76. b.

Arrests.

An Arrest is a certain restraint of a mans person, depriving it of its own will and liberty, and binding it

it to become obedient to the will of the law, *Dal.*343. *Lam.*93. *Cro.*38.a.*nu* 1.

All lay persons under the degree of a Baron or Peer of the Realm, are subject to an arrest, *Lam.*93. *Dal.* 343.

Ecclesiastical persons not attendant upon divine Service, may be arrested for the peace, *Lamb. ibid. Dal.* 166.

Constable, or Justice of Peace coming to arrest an affrayer, if he flie into another house, they may in fresh suit break open the door, and take him: So if he fly into another County, *Lam.*134. *Dal.*34.

All that come to the Sessions for publick service, or upon compulsion, upon complaint and examination of the matter by oath, shall be freed from any arrest upon original process, *Lamb.*402.

Bailiff taking above 4. pence for any arrest, shall forfeit 40.li. 23 *H.*6. *cap.* 10.

The officer ought to require the party to come and find surety of the peace, before he arrests him, by the opinion of 5 *Ed* 4. 31. *Lam.*90. *Dal.* 166.

If one required by the officer upon warrant to finde surety of the peace, refuse, the officer by vertue of his warrant may convey him to prison, *Lam.*92. *Dal.*171.

"In all criminall causes where one incurreth loss "of member, or of life, every man may arrest him, "whether he have warrant or not, *Dal.* 344. But "where a private man arresteth any in the cases a- "foresaid, he ought to deliver him to the Constable, "or some officer, *Dal.*348.

"When a felony is committed, 1. any man that "suspects another may arrest him: 2. or if there be "common fame that he committed the felony: 3. or "if he be prosecuted with huy and cry: 4. or if he be "in company of the offenders: 5. or he apparently "go about to commit a felony, *Dal.*345. *Vide Cro.*99.b.

"A man is slain, or a felony committed, and an "innocent party is arrested for the same, he cannot be

"be delivered but by order of law, *Cro.* 40. b. *nu.* 20. "*Dal.* 279, 304. *Lam* 233.

A Constable taking an affrayer, may not imprison him in his house, but in the Stocks, *Lam.* 133. *Vide* Riot, Sheriff, Prison.

Arraignment.

Arraignment is commonly a compulsory coming of one indicted of a matter touching life or such hainous offence, and a pleading not guilty, *Lam.* 546.

One coming in freely, and indicted of an inferiour offence, may be arraigned, *Lam.* 547.

One arraigned of felony, if his case will serve, may plead a justification or matter in law, *Lam.* 547. and the Court shall assign him counsel. *Cro.* 110. *nu.* 5.

"He that is arraigned of felony shall have leave "to bring him into the Court, who sold the thing to "him, and the Court shall assign him counsel, *Cro.* "110. a. *nu.* 3.

Artificers, *vide* Labourers.

Assault.

Assault cannot be made without the offer of some hurtfull blow, or at least of some fearfull speech. *Lam.* 126.

To rebuke a collectour with foul words, so that he depart with fear, without doing his office, was taken for an assault. *Lam. ib.*

To strike at a man, although he were neither hurt nor hit with the blow, is an assault. *Lam. ibid.*

Maker of an assault, battery, or other trespass upon the body of another, is to be fined.

Servant or workman, convicted by confession of two witnesses, before two Justices of Peace, of maliciously assaulting Master, Dame, or Overseer, is to be imprisoned a yeer, and any other corporall punishment saving life and member. 5 *El. cap.* 4. & 5. *Dal.* 30. *Cro.* 8. a.

If

If another assault me, if I may escape with my life, it is not lawfull for me to beat the other. *Dal.* 210.

An attempt is made to beat a man, his wife, father, or mother, or any of his children within age, he may lawfully use force to resist it, and may justifie the beating of the other. *Dal.* 210. Yet by opinion of *Eliot*, 12 *H.* 8. *fo.* 2. b. it is not lawful, except there be such peril as another is like to perish if there be no help. *Dal* 184. 210.

"A man taketh away my goods which are in my "possession, I may take them again with force "*Cro.* 65. b. *nu.* 60. 61. *&* 137. 2. *Dal.* 181. But I must "first lay my hands on him, and disturb him, and if "he will not leave, then I may beat him, rather then "he shall have my goods, *Dal. ibid.*

Assembly unlawfull, *vide* unlawfull assembly.

Assize of Bread and Beer.

Any Brewer, or Baker, or Tipler, breaking the Assize of Bread and Ale, to be fined. 13 *R.* 2. *c.* 8. *Lam.* 459.

Any officer taking fine for breach of the Assize of Bread and Ale, where there ought to be a corporal punishment, is to be fined. 13 *R.* 2. *c.* 8. *Lam.* 459.

Attainder.

One attainted of felony may be arraigned for treason commited before or after the attainder, *Lam.* 557, 558.

One attainted upon an appeal of robbery, may be arraigned upon an appeal of robbery at another suit, *Lam.* 558.

One attainted of felony, by standing mute, may

aft

after be arraigned of another felony, *Lam.* 558.

One attainted of felony, cannot after be arraigned for another felony, ſo long as the firſt is unpardoned, unleſs it be in the caſes before. *Lam.* 557.

After the attainder, the felons grant of goods or lands bindeth all perſons, except the Land-lord, to whom they eſcheat. *Dal.* 303.

Indictment is, when an offence is found by the great Inqueſt, or other Jury of inquiry.

Conviction is, when the offender is found guilty by a ſecond Jury, having put himſelf to triall.

Attainder is, when after ſuch conviction judgement is given againſt the offender. *Dal.* 304.

A wait lying, *vide* Way-lying.

Averrements.

No man ſhall be received to averre or ſpeak againſt a record, *Lam.* 63.

Badgers and Drovers.

LIcence to Badgers and Drovers, and Loaders of corn, muſt be in open Seſſions, and there regiſtred and kept by the Clerk of the Peace. 5 *El. ca.* 12. *Lamb.* 610.

Offences againſt the ſtatute of Badgers and Drovers may be enquired of as well by examination of witneſſes, as by preſentment. 5 *El. cap.* 12.

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to be levied by *Fieri facias*, or *Capias*, awarded by the Juſtices of Peace. 5 *El. cap.* 12.

"Clerk of the Peace muſt make and write all Li-
"cences made to Badgers, Loaders, and Drovers, and
"keep a book to regiſter the ſame, and the recogni-

ſance

"ſance taken before the Juſtices of Peace, which re-
"cogniſance muſt be [*That they ſhall not do any thing*
"*contrary to the ſtatute 6 Ed. 6. cap. 14. provided againſt*
"*foreſtallers*,] and therein write the names and ſur-
"names and places of the licenſed, with a brief en-
"try of the licence, day, time, and place where it was
"granted, and bring the ſame to every Seſſions, ta-
"king for the licence xii. d. for the recogniſance
"viii. d. and for regiſtring iiii. d. 5 *Eliz. cap.* 12.

Bailment.

Bailment, Mainpriſe, or Replevin, is the ſaving or delivering a man out of priſon before he hath ſatisfied the law; ſo by finding ſureties to anſwer, and to be juſtified by the law. *Lam.* 340. *Dal.* 312.

He that is bailed, is delivered into his ſureties hands to be kept. *Cro.* 152. b. *nu.* 6. *Stam.* 65 a. *Dal.* 312.

If the ſureties doubt the eſcape of the priſoner bailed, a Juſtice of Peace upon prayer may diſcharge the ſureties, and commit the party to priſon. *Dal.* 312. *Cro.* 153. a. *nu.* 13 & 157. a.

A Juſtice of Peace may cauſe the bailed to find better ſureties. *Cro.* 152. b. *nu.* 4. *Dal.* 312.

For want of taking ſufficient bail, the Juſtices of Peace are fineable at *Cambridge* Aſſiſes 1613. by Judge *Warberton.*

It is requiſite to take two ſubſidie men for bail, eſpecially if it be for felony, or ſuſpicion thereof. *Dal.* 313.

To detain a priſoner that is baileable, is fineable. *Dal.* 313.

To bail one not baileale, is a negligent eſcape. *Dal.* 313.

A Juſtice of Peace bailing contrary to the law, or not certifying the bail and examination of the felon, is fineable by the Juſtices of Gaol-delivery. *Lam.* 345. 1. & 2. *P. & M.* 6. 13. *Cro.* 167. b. *Dal.* 313.

Where

Where one is bailable, he must offer sureties. *Dal.*313.

For what offences a man is not bailable by a Iustice of Peace by the statute of W. 1. 3 Ed. 1. 15. Cro. 156. a. Lam. 345.

1 Abjured the Realm. *Dal.* 316.
2 Approver or appellour. *ibid.*
3 Appealed by an approver. *ibid.*
4 Burning a house feloniously. *ibid.*
5 Excommunication taken at the Bishops request. *ibid.*
6 Felon taken with the manner. *ibid.*
7 A known theef and defamed. *ibid.*
8 Outlawed. *ibid.*
9 Prison-breaker. *ibid.*
10 Traitour to the King himself. *ibid.*
11 Falsifier of the Kings money. *Dal.* 317.
12 Counterfeiter of the seal. *ibid.*
13 Attainted or convicted of felony. *ib.*
14 Accessary to two felonies, if one principall be attainted. *Dal.* 319.
15 Death of man, if he be principall. *ib.*
16 Taken upon Proces of rebellion issuing out of Chancery or Star-chamber, *Lamb.*347 *Dal.* 320.
Arrested by Proces, Writ, Bill, or Warrant, in an action personall. *ibid.*
18 Persons convicted of felony, praying Clergy and reprieved. *Cro.*154.a.*nu.*2. *Dal.*318.

For what offences a man is not baileable by a Iustice of Peace.

A Justice of Peace is not to bail but in causes which may hear and determine. *Lam.*347. *Dal.*320.

Murder,

Murder, or any other homicide. *Dal.* 315.

Confeſſing the fault of manſlaughter. *ibid. Lam.* 34.

Taken in the manner for killing. *ibid.*

Known to have killed a man. *ibid.*

By the King, or his privy Councel. *Dal.* 316.

By the abſolute, not ordinary command of the Kings Juſtices. *ibid.*

For treſpaſſes in the forreſt. *Weſt.* 1. *cap.* 15.

Confeſſing the felony whereof he is accuſed. *Cro.* 152. b.

Impriſoned for ſurety of the peace. 23 *H.* 6. *cap.* 10. *Lamb.* 346.

Speciall commandement of any Juſtice. 23 *Hen.* 6. *cap.* 10. *Lam. ibid.*

Where Bailment is taken away by ſtatute. vide Lam. 349. *Dal.* 320.

For what offences a man is bailable.

Taken for light ſuſpicion. *Dal. ibid.*

Indicted of petty larceny, not being formerly guilty of another. *ibid.*

Charged, 1. With the receipt of thieves, of felony. *Dal.* 318.

2. Of commandment force or aid in felony done. *ibid.*

3. With the treſpaſs that toucheth not loſs of life or member, *Dal.* 319. *Weſt.* 1. 25. (if not prohibited by ſome latter ſtatute) appealed by an Approver, being no common thief, nor defamed after the death of the Approver. *Dal.* 320.

Indicted of manſlaughter, and acquitted. *Lam.* 347.

Acquitted of murder or manſlaughter at the Kings ſuit, bailable during the yeer. 3 *H* 7. *c.* 1. *Lam.* 347.

Impriſoned by Proces out of the Seſſions upon penall laws not forbidding bail, bailable out of the Seſſions by two Juſtices, one being of the Quorum. *Lam.* 348. *Dal.* 319.

Ac

Accuſed of homicides which are not felony.

Acceſſary to felonies. *Dal.* 318.

If they be found of good fame, untill the principall be convicted or attainted: but after the principall is attainted, he is not bailable, except he plead not guilty or other plea. *Dal. ibid. &* 321.

Principall in burglary. *Dal. ibid.*

Principall in an indictment of robbery. *Dal. ibid.*

Principall in an appeal of robbery. *Dal. ibid.*

Attached by Seſſions Proces upon indictment of treſpaſs, may be bailed by one Juſtice of Peace to appear at the day to anſwer the indictment, and may make his Superſedeas, *de cap. indict.* and ſo of the exigent. *Dal.* 319.

In every bailment which muſt be by two Juſtices, one of them being of the Quorum, the Juſt. muſt be preſent together at the time of bailment, who before bail taken muſt examine the priſoners, and receive the information of them that bring them: all which with the bailment they muſt put in writing, ſigned or ſubſcribed with their own hands, and certified at the next Gaol delivery to be holden in the County. 1. & 2. *P. & M. ca.* 13. *Dal.* 314.

The ſaid Juſtices have authority to binde all perſons that can give evidence, to appear the next Gaol-delivery to give evidence againſt the party at the time of his trial. *Dal.* 303.

Some ſtatutes not onely take bail from the offenders thereof upon their ſolemn conviction after judgement, but alſo upon the record of one or two Juſtices, or by examination or proof of witneſſes, or other ſuch private trial had before them, *Lam.* 349. for the form of bailment, *Lam.* 252. The form of the Libelate. *Dal.* 596. *Lam.* 352.

Bailiffes.

A Bailiff was puniſhable in falſe impriſonment, if he compel the party to go before any other Juſtice than he chuſeth. *Lam.* 89. 94.

But now the law is adjudged to be, that the Bailiff or Constable shall chuse the Justice. *Dal.* 59. and *Coke l.* 5. 59 *b.* Fosters case.

As the Bailiff may not compel him that is arrested for surety of the Peace, to go before him that granted the warant; so it is not reasonable that the Bailiff shall be drawn out of the division and limit where they both dwell. *Lam.* 95. *Dal.* 171.

A Bailiff arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false imprisonment. *Dal.* 341. *Cro.* 149. a. *Lam.* 90.

A Bailiff arrests one by warrant for the Peace, the Justice will not binde the party, no action lieth against the Bailiff. *Dal.* 1. *Lam.* 91.

Two Justices of Peace, one being of the Quorum, may give unto the Bailiffs of Franchises before they exercise their offices, the oathes of 1 *Eli.* of supremacy, & 27 *El.* touching their offices. 27 *El.* 2. *cap.* 12.

Bailiff taking above four pence for an arrest, is to forfeit 40. li. 23 *H.* 6. *cap.* 10. and lose treble dammage to the party damnified.

Bailiff of the Hundred that executeth not a warrant against any defendant in the Sheriffs Court, shall lose 40. shil. 11 *H.* 7. 6. 15. *Vide plus* Warrants.

Bakers, *vide* Assise of Bread.

Barretours.

But all such persons must be common Barretors, that is not in one or two but in many causes. *Coke* 8. 37.

A common Barretour is he, who is either a common mover, stirrer up, or maintainer of suits in law in any court, or quarrels in the countrey. *Dal.* 36. *Lam.* 440. *Cro* 84. *a.* and is to bound to his good behaviour & imprisoned. *Lam.* 440. *Vide plus Dal.* 36. *Coke* 8 36

Bar-

Bargain and Sale, *vide* Inrolement.
Bark of Trees, *vide* Leather.

Baſtardy.

Two Juſtices of Peace, one being of Quorum, in or next to the Pariſh, where a baſtard left to the charge of the Pariſh, or likely to be chargeable, is born are to take order for the relief of the Pariſh, keeping of the child, and puniſhment of the reputed father and mother. 18 *El.* 3. 7 *Jac. ca.* 4. *Dal.* 37.

The reputed father and mother not performing the order ſet down by two ſuch Juſtices, the delinquent is to be ſent to the Gaol without bail, except they put in ſureties to perform the order, or appear at the next general Seſſions of the Peace. *Dal.* 38.

"If the Juſtices of the Peace do not agree upon "an order, it is to be referred to the Bench. *Dal.* 25.

"*Quadraginta ſeptimanæ ſunt legitimum tempus mulieribus conſtitutum.* Coke Inſtit. 133. Dal. 38.

"The mother may be examined upon oath, concerning the reputed father, the time and other circumſtances. *Dal.* 37.

"By 7 *Jac. ca.* 4. the mother is to be committed to "the houſe of correction for a year: but not till after "delivery, and the child living. *Dal.* 38.

"If ſhe offend the ſecond time, ſhe is to be committed to the houſe of correction, and there remain "till ſhe finde ſureties for her good behaviour, and "not to offend again. 7 *Jac. ca.* 4. *Dal.* 38.

All Juſtices of Peace in their ſeveral limits, and in their Quarter Seſſions, may do all things concerning the ſtatute, 18. *Eliſ.* for Baſtardy, which is limited to the Juſtices of Peace in ſeveral counties, 3 *Car. cap.* 4.

Reputed father to be bound to the good behaviour till the child be born. *Dal.* 37.

Vide plus house of Correction.

If the putative father shall either before or after the birth of the child, by practice of any other, convey himself away, or cause the mother to run or leave her child, such may be bound over to the next Gaol-delivery or Quarter Sessions. *Dal.* 37.

If the parties marry together before any order made; Quære if the Justices of Peace can medle.

Battery lawfull, *vide* Riot, Assault, Breach of the Peace.

Bath and Buxton, *vide* Licence.

Bawdery.

For an Additional punishment of Bawdery, see after here Felony by the statute: and the new Act 10 *May* 1650.

Bawdery is not meerly a spirituall offence but mixt, and soundeth somewhat against the Peace. *Lam.* 119. *Dal.* 193.

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a suspected house in the night, may take company with him, and if he finde them so, he may carry them to prison, or to a Justice, to be bound to their good behaviour. *Dal.* 193.

Reforters to bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Keepers of bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Beads, *vide* Agnus Dei.

Bear-wards, *vide* Licence.

Bee

Beer and Beer-brewers, *Vide* Victuallers.

Beggers, *vide* Rogues and poor people.

Blaſphemous and Heretical opinions.

1 For the manifeſting hereof, theſe things muſt be obſerved to maintain and publiſh by writing, preaching, printing, or teaching, That there is no God, that God is not preſent every where, or that he knoweth not, nor foreknoweth all things, or that he is not Omnipotent, or that he is not perfectly holy, or not Eternal; or that any of the Three Perſons of the Godhead is not God, or that they three are not one Eternall God; or that *Chriſt* the Son is not equall with the father, or ſhall deny the Manhood of *Chriſt*, or that the Godhead and Manhood of *Chriſt* are ſeveral Natures, or that the Humanity of *Chriſt* is without ſin, or ſhall maintain, that *Chriſt* died not, nor roſe from the dead, nor aſcended into Heaven bodily, or deny or that his death is meritorious for the redemption of Believers; or that *Chriſt Jeſus* is not the Son of God, or that ſome part of the Scripture is not the word of God, or ſhall deny the Reſurrection, or day of judgment: An obſtinate maintaining of any of theſe opinions, is felony; and if he do not abjure it, he is to dye without Clergy, but forfeits nothing, nor is his blood corrupted: And if he do abjure it, yet he muſt be impriſoned till he be come bound with two Subſidy men to two Juſtices of the Peace, or Judges of Gaol-deliver, not to offend again, and if he do, then to dye without mercy.

2 If any averre, as before, That all men ſhall be ſaved, or that man naturally hath free will to convert

to God, or that God may be worshipped in or by Images or pictures; or that mans soul after death goeth neither to heaven, nor hell, but to Purgatory; or that the soul of man sleepeth, or dieth after death; or or that revela ions or operations of the Spirit are a Rule of faith, or Christian life, through diverse or contrary to the written word; or that a man is bound to believe no more then he can comprehend by his reason, or that the morall Law is no Rule of Christian life; or that a Believer needs no repentance, or prayer for pardon of his sins, or that Baptism, and the Lords Supper are not the two Sacraments appointed by Gods word; or that Baptizing of Infants is unlawfull, or void, or that such must be rebaptized, or shall rebaptize any such; or that the keeping of the Lords day according to our form, is not agreeable to, or against the word of God, or that it is unlawfull to joyn in publick or family prayer, or to instruct children to pray, or that the Churches of *England*, their Ministers, or Ordinances, are not the true Churches, Ministers, or Ordinances, or that the Government of the Church by Presbytery is unlawfull, or Antichristian; or that magistracy is unlawfull; or that the use of Arms in no case is lawfull: He that is convicted hereof, if he will not abjure them publickly upon the Justices order, he is to be imprisoned till he finde two sureties not to offend so again: *Ord. 2. May* 1648.

3 If any (not distracted or distempered) shall by word or writing maintain any creature to be God, or equall to God in his Attributes, or that God dwells in the Creature, or deny the holiness or righteousness of God, or affirm, That wicked persons, or wickedness, or the profane Acts of swearing, drunkenness, or lewdness, are not impious against Gods word, but are approved by him, or that such things, or such persons therein are like God: or shall affirm, That these Acts of blaspheming and denying God,

God, or his Holineſs, or Juſtice, or the Acts of curſing, or profane ſwearing by the name of God, or that lying, ſtealing, and couſening, Sodomy, drunkenneſs, filthy ſpeaking, are not things in themſelves ſhamefull, impious, abominable and deteſtable in any perſon, or to be practiſed by any perſon: or ſhall averre that the Acts of adultery, drunkenneſs, ſwearing, and the like groſs profaneneſs, are in their own nature as holy and righteous, as the duties of prayer, preaching, or thankſgiving to God: or ſhall wilfully profeſs, that what is acted by them, whether whoredom, adultery, drunkenneſs or the like haynous impiety, may be committed without ſin: or that ſuch things are acted by the true God, or by the Majeſty of God, That heaven & all felicity conſiſts in the committing of theſe things, or that ſuch men, and women are moſt perfect, or like to God, which do commit the greateſt impiety with leaſt remorſe: or that there is no ſuch thing really as unrighteouſneſs, or ſin, but as a man or woman judgeth thereof: or that there is neither heaven nor hell, ſalvation or damnation, or that thoſe are one and the ſame thing, and that there is no true defference between them.

1 For the firſt offence, the party is to be impriſoned in the Gaol or houſe of Correction three moneths without bail; for the ſecond to be baniſhed, and upon return to ſuffer as a felon.

Any two Juſtices of Peace may examine it upon oath, and upon proof by two witneſſes, or upon confeſſion, the offenders of the firſt rank may impriſon without bail, and binde over the witneſſes to the next Gaol-delivery: Two Juſtices may take bond from ſuch perſons convicted with two ſubſidy men, that after renunciation, he will not offend again; Two Juſtices one of the Quorum may ſo examine the offenders of the ſecond rank, and may order them to renounce their errors in the publick congregation of the Pariſh whence the complaint came, or where

the offence was done, and upon disobedience to send him to Gaol, till he give bond to them with two subsidy men, not to commit again the same offence, *Ord.* 2. *May* 1648.

And touching the offence of the third sort, one Justice may upon his own confession, or oath of two witnesse convict the offender, and send him to prison, or the house of Correction for six months without bail or mainprize. *Ord.* 9 *Aug.* 1650.

Bockwood, *vide* Logwood.

Bloudshed.

Presentment of bloudshed found in the Sheriffs Turn, and sent to the Justices of Peace, can neither be traversed before the Justices of Peace, nor at the Sheriffs Turn. *Law.* 543.

Bonds *vide* Recognisances.

Books scandalous and Pamphlets.

None may make, publish, or sell or cause to be done, any book, ballad, libell, or Treatise of news (without licence of Parliament, or persons thereby impowered) and the name of the Author, licenser, and printer prefixed, upon pain of 40. shil. or imprisonment till it be paid 40. days to be endured by the maker of it, and 20. shill. or imprisonment by 20. dayes by the Printer, and 10 shill. or imprisonment till that be paid, or ten days imprisonment upon the Stationer.

The Hawker, pedler, or singer is to forfeit all his books and to be whipped in the place where the offence is committed, or offender apprehended.

One Justice of Peace may execute these things and upon his own vow or oath of one witnes convict the offender, *Ord.* 28. *September* 1647.

Boyers

Boyers, *vide* Archery.

Brass and Pewter.

Brasier nor Pewterer may exchange or sell any Brass or Pewter, but in open Market or Fair, or in his house, unless upon request of the buyer, on pain of ten pounds for each offence, 19 *H.*7. *cap.* 6. 4 *H.*8, 7. and inquirable at the Sessions. *Lam* 621.

All working hollow wares of other lay metall than according to the assize of the lay metall wrought in London, or not setting their seal on, lose the wares. Searchers of Brass and Pewter must be appointed by the Justices of Peace at Michaelmas Sessions. 19 *H.*7. *cap.* 6. 4 *H.*8. *cap.* 7. *Lam.* 621.

Breach of the Peace, or good behaviour.

What shall be accounted a breach of the Peace.

To threaten one to his face to beat him, at whose suit he was bound. *Lam.* 115. *Dal.* 181. *Cro.* 136. *b.* or in his absence, if he after lie in wait to do it. *ibid.*

To command or procure one to do any unlawfull act against the Peace, if it after be done.

Menacings, affrays, assaults, injurious and violent handlings and entreatings, battery, and malicious strikings, imprisonment without warrant, to thrust one into the water to endanger him, to ravish a woman, to commit felony or treason. *Dal.* 181. *Lam.* 127.

A Farmer, Tenant, or Commoner, by threats or blows to repulse violence offered his Land-lord or Maior. *Lam.* 129. *Dal.* 185.

What act soever is a breach of the Peace, the doing thereof doth beget a forfeiture of the recognizance,

made for keeping of the Peace. *Dal* 181. *Lam.* 113.

"A Justice of Peace certifieth into the K. Bench "that such a man broke the Peace in his presence, the "party shall be put to his fine without any traverse. "*Cro.* 132. a.

What not.

In his absence to threaten to beat him, at whose suit he was bound to the Peace. *Dal.* 181.

Threats or moderate correction of the Master, Schoolmaster, Gaoler, to those under their command, of Parents to the child within age, of the Lord to his villain. *Lam.* 127. *Dal* 183.

To beat with rods a kinsman that is mad, to the end to reclaim him. *Dal. ibid. Lam.* 128.

Constable, Officer, or any of their company, to strike any for better execution of their office. *Dal.* 180 *Lam.* 128. By threats or blows to repulse violence offered to ones own person, wife, father, mother, child, master. *Dal.* 184.

Preservation of his own goods. *ibid. Lam.* 129. and *Crom.* 136. b. affirm that the Master may beat him that doth assault or beat his servant: but *Dalton* maketh a quære of it, and that a Master may onely with sword or staff defend him. *Dal.* 181. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, turnament or barriers in the Kings presence, or by his command *Dal.* 184 *Lam.* 129.

To take ones goods wrongfully, if not from his person. *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his recognisance. *Cro.* 65. b. *nu.* 59. 8. 137. a.

So to take anothers Ward. *Dal.* 186. *Lam. ibid.* To disseise another of his Ward. *Dal. ibid.*

To trespass in anothers corn or grass *ibid.*

Trespass lyeth at the Common Law, for threatning to beat one.

Vide plus Forfeiture.

It is no breach of the Peace for a private man to ſtrike or wound another in defence of his own perſon from beating, wounding, or killing: but if he may eſcape with his life, without being wounded, maimed, or hurt, it is not lawfull, except he firſt flie as farre as he can. *Dal.* 184. *Cro.* 137. a.

To take a dogge of any kinde, or other thing of pleaſure from the perſon of another, or in his preſence with force or violence, amounteth to a breach of the Peace. *Dal.* 168.

Brewers, *vide* Victuallers.

Bridges.

"By common right Bridges ſhould be amended "by the whole County, for it is for the common eaſe "of the County, *Cro.* 187. b. yet if any have fiſhings "or profit in that river, they are chargeable. *Cro.* "186. b.

A man voluntarily maketh or amendeth a Bridge: he is not compellable to do the ſame again, unleſs he and his anceſtors have uſed ſo to do time out of minde. *Dal.* 41. *Cro.* 186. a.

"Where a man and his anceſtors have uſed time "out of minde to repair a Bridge, the King cannot "acquit him. *Dal.* 41.

It being not known, who, or what land is chargeable with the repairing of a decayed Bridge, four Juſtices one being Quorum, may tax the Inhabitants "and make Collectors, and Overſeers, for repayring "of it: and appoint Surveyours, and exact an ac-"compt of them, and if they refuſe ſo to do, the ſaid "Juſtices may make out Proces againſt them, by "Attachments, Precepts, or Warrants under their "ſeals, returnable at the Quarter Seſſions, and may "allow reaſonable coſts to the Surveyours and Col-"lectors. 22 *H.* 8. *ca.* 5. *Dal.* 40.

"AA

"A man and his anceſtors or a Corporation time "out of minde uſed to make a Bridge, though they "did it freely at the firſt and not of right, it ſhall con-"clude the heirs and ſucceſſors. *Dal.* 41. *Cro.* 186, "a.b. *Prior of Stokes Caſe.*

Juſtices of Peace where a decayed Bridge is, may award Proces into the County where the parry or land chargeable is. *Dal.* 40.

A Bridge lying within a Corporation, the Hundred ſhall not be charged therewith. *Et è converſo. Dal.* 40. 41. *Cro.* 187.b.

A Bridge lying in two ſeverall Counties, either muſt repair his part. *Dal.* 40. *Cro.* 187.b.

"A common Bridge lying within a Franchiſe, they "muſt repair it. *Cro.* 187.b. *Dal.* 40.

"A man is to repair ſome arches at the end of a "Bridge: if the Buttereſſes be decayed, he is to follow "the courſe of the water, and to repair the high way "without leave of the owner of the land, and lay "ſtones, &c. neceſſary, upon the adjoyning land of "another. *Cro.* 186.b. *Dal.* 42.

"He that is bound to repair a Bridge, muſt main-"tain the way at each end. *Cro.* 186.b.

Buckſtalls.

One ſuſpected to have offended againſt the ſtatute, 19 *H.*7.*c.*11. of deer-hayes, and buckſtalls, &c. is to be examined by two Juſtices at Quarter Seſſions, and being convicted by his own examination onely, is to be impriſoned till he finde ſurety for the forfeiture. 19 *H.*7. *c.*11. *Lam.* 535. 630. the tenth part whereof the Juſtices examining ſhall have. *ibid.*

Buggery.

The ſin of Buggery with a man or Beaſt, is felony. 25 *H.*8.*c.*6.5. *El.c.*17. *Lam.* 227. 256. 421.

Bull

Bull from Rome, *vide* Treasons.

Burglary.

Burglary is when one or moe in the night time do break a dwelling house, or a Church, or the walls or gates of the City or walled Town, with an intent to do felony, albeit they carry away nothing. *Dal.*256. *Lam.*258.423. *Cro.*31.2.*nu.*1.

The night is from sun-setting to sun-rising, *ibid. Lam.*259.423,424. *Dal.*256.

What act shall make a burglary without entring into the house.

Putting back the leaf of a window. *Dal. ibid. Lam.* 262.

Drawing the latch of the door. *Dal. ibid. Cro.* 33.b. *Lam. ibid.*

Turning the key being on the inside. *Cro.* 31. b. *Dal. ibid. Lam.*262.

Breaking the glasse-window, and hooking out of goods. *Lam. ibid.*

Making a hole in the wall, and shooting one within the house. *Dal.*256. *Lam.*262. *Cro.*31.b. *nu.*7.

The door being open, to put his hand over the threshold, and discharge a dag at any within. *Dal. ibid. Cro.*32.a.*nu.*11. *Lam.* 263.

They within cast out their money for fear, and they without carry it away. *Cro.*31. b.*nu.* 9. *Lam.* 261. 262. *Dal.*257.

Without breaking the house.

To set foot over the threshold with a felonious intent. *Dal.* 257. *Cro.*32.a. *nu.*13.

To come down by a chimney. *ibid.*

To come in by help of a key. *Cro.* 31, a. *nu.*8. *Lam.* 262. *Dal.* 257.

To

To enter the doors being open, and the owner flying to his chamber, to shove at the chamber door. *Dal. ibid. Lam.* 262. *Cro.* 32. b. *nu.* 25.

If pretending to be robbed, by help of the Constable for search they rob the owner. *ibid. Lam.* 263. *Dal.* 257. *Cro.* 32. b. *nu.* 24.

If upon conspiracie with a servant, the servant openeth the door, and the thief entreth. *Dal.* 257.

One entring, and the rest standing about the house, or not farre off. *ibid. Lam.* 264.

To enter under the threshold.

What place makes Burglary.

Publick, as Church, wals or gates of a City or Town walled: Private, as a dwelling house, if any be within. *Dal.* 257. *Cro.* 33. a. *nu.* 32. *Lam.* 260. 261.

The family for part of the night is abroad, and in the interim the house is robbed. *Dal.* 258. *Cro.* 33. b. *nu.* 40.

A man hath two dwelling houses, and dwelleth sometime at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken. *Cro.* 33. b. *nu.* 4. *Dal. ibid.*

To break a chamber in a Colledge or Inne of Court, though no body is in the chamber. *Dal.* 258. *Lam.* 261. *Cro.* 33. a. *nu.* 29.

Breaking a barn or stable neer to a dwelling house, to the intent to steal. *Dal. ibid. Cro.* 32. *Lam.* 261.

Robbing a back-house. *Dal. ibid.*

To enter to ravish a woman. Quære, *Dal.* 259.

The Host of an Inn breaking into his Guests chamber to rob him. *Dal.* 258.

What not.

Entring only with intent to beat. *Dal.* 259. *Lam.* 264.

Breaking

Breaking and departing without entring. *Lam.* 262. but it is felony. *ibid. Lam.* 261. it is not burglary in one under 14 yeers of age. *Dal.* 259.

Nor in poor perſons, that upon hunger break and ſteal under the value of 12 pence. *Dal.* 260.

Nor in natural fools, or *non compos mentis. ibid.*

Burning of houſes.

Malicious burning of houſes, being dwelling houſes, or barn with corn in it, is felony. *Dal.* 273. *Lam.* 266. 424. *Cro.* 31. a. *nu.* 3.

Burning of an empty barn in the night felonioufly, if it be nigh a dwelling houſe. *Dal.* 274. *Lam. ibid.*

All burning that proceedeth of a former burning that was malicious, is felony. *Lam.* 266.

"One intending to burn anothers houſe fireth it, "and part onely is burned and quenched, it is felony. "*Dal.* 274.

"One ſhooteth unlawfully in a hand-gun, and the "fire ſetteth another mans houſe on fire, and burneth "it down, it is felony. *Dal.* 274.

Burning of a ſtack of corn felonioufly. *Dal.* 274.

Butchers.

Butchers gaſhing a hide whereby it is hurt, loſeth 20 pence. 1 *Jac. c.* 22 *Lam.* 462.

Butchers watering any hides, except in June, July, or Auguſt, loſe 3 ſhillings 4 pence an hide. *ibid.*

Butchers or any other killing calves to ſell under 5 weeks old, loſeth 6 ſhill. 8 pence a calf. *Lam.* 453.

Or killing any weanling, bullock, ſteer, or heifer under the age of two yeers. *Lam.* 453. 24 *H.* 8. *c.* 9. *vide* Victuallers.

Butter and Cheeſe, *vide* Victuals.

Butts.

Inhabitants of a Town, not continuing their Butts

as they ought, are to lose for every three moneths 20 shillings 33 *H.*8.*c.*9. *Lam.*481.

Buying and selling, *vide* Cattel.

Calves and Kine.

ANy killing Calves to sell under five weeks old, lose for every one 6 shillings 8 pence, 1 *Jac.*22.

Any feeding in his own ground fit for milch Kine, wherein none hath common, above 120. Sheep more than for his own provision, must raise one Calfe for every 60 Sheep, or lose 20 shillings a moneth for each Calfe, and keep one milch Cow for every ten Oxen, Runts, &c. so fed, if he feed above twenty. And for every two milch Kine must rear one Calf yeerly, except it dye, upon the like pain. 2.&.3.*P.*& *M.*3.13 *El.c.*25.7 *Jac.c.*8, *Lam.*453.

Offences against this statute are determinable at the Quarter Sessions.

Captains.

Any Muster-masters taking reward for discharging any from service, lose ten times so much, or 20 li. 2 *E.*6.*c.*2. *Lam.*482.483.

Captains, or others having the charge of men-of-warre, keeping back part of their pay, lose to their souldier treble so much as is not paid: or for gain licensing any to depart, lose ten times the gain. 2 *E.* 6. *ibid.*

Vide plus Travelling.

Castle, *vide* felony.

Cattell.

Buyers

Buyer of live Oxen, Runts, Steers, Kine, Calves, Sheep, Lambs, Kids, and Goats, if he sell them within five weeks after, loseth the double. 5 *E.* 6. *c.* 14. *Lam.* 452. *vide* Badgers.

Certificate.

Recognisance and release of the Peace, both are to be certified at the next Quarter Sessions. 3 *H.* 7. *c.* 1. but no pain by the statute to the Justice if he do not. *Lam.* 111. *Dal.* 177. *Cro.* 139. 2. *nu.* 11.

One that is bound to the Peace, maketh default at the day of his appearance, the Recognisance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace. *Lam.* 589.

Sheriff must certifie to the Justices at the next Sessions, indictments lawfully found and taken at his turn or law-day. 1 *E.* 4. *c.* 2. the penalty is 40 pound.

Clerk of the Crown must certifie the names of any that have been out-lawed of felony, or Clerks convicted or attainted upon the letter of a Justice of Peace, or lose 40 shillings. 34 *H.* 8. *c.* 14.

Transcript of every attainder, out-lawry, or conviction had before the Justices of Peace must be certified into the Kings Bench by the Clerk of the Peace within 40 dayes after the attainder, if it be in Term; if not, within 20 days after the beginning of the next Term; on pain of 40 shillings. 34 *H.* 8 *c.* 14. Clerk of the Peace must certifie to the Ordinary a transcript of the Clerks convicted or attainted, 34 *H.* 8. *cap.* 14. Quære, because by 18 *El. c.* 6. no delivery to the Ordinary. *Lam.* 558.

Custus Rotulorum of the County where one is attainted as principal of felony, upon writing of the Justices of the Gaol delivery, or Oyer and Terminer of another County where one is accessary unto the

the other, must certifie what is done with the principall. 2 *E.6.c.24. Lam.*588, 589.

Where the Justices are to receive indictments and no power to proceed upon them, they must certifie them into the Kings Bench without *Cert. orari. La.*589.

Abjuration of a seditious sectary made in open Quarter Sessions, must be certified at the next Assises unto the Justice of Assise. 35 *El c.*1. *Lam.*590.

Presentment that goods and chattels of one attainted of felony be in others hands, it is to be certified in the Kings Bench, or Exchequer. *Lam.*590.

Recognisance of an Alehouse-keeper must be certified at the next Quarter Sessions after the taking, or the Justice loseth five Marks. 5 *E.6.c.*25.

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificate of transcripts of Records of the Sessions into the Kings Bench, *vide* Clerks of the Peace.

Certificate of Ryots, *vide* Ryots.

Certificate of Certiorari, *vide* Certiorari.

Certificate of Examinations, *vide* Examinations.

Vide plus Recognisance.

Certiorari.

Certiorari is to remove Indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously. *Lam.*591.

A Certiorari issueth out of the Chancery, and the Records are removed thither, and sent thither by Mittimus to any other Court. *Lam.*591.

Certiorari to remove matters of the Crown, need not contain the cause of the removing. *Lam.*514.

Certiorari into the Chancery hath in *Cancellaria*, into the Kings Bench *nobis mittatis. Dal.* 416. *Cro.* 132.a.

Certiorari may command either the Record it self, or the tenour of the Record. *Cro.* 131. b. *Lam.* 515. *Dal.*416.

Cer-

Certiorari is to be directed to the Justices. *Lam.* 515.

Justices of Peace ought upon Certiorari to remove the Record, though the party that brought the Certiorari sueth not after to have it removed. *Dal.* 416. *Cro.* 132. b. & 133. a. *Lam.* 516.

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken. *Dal.* 417. *Cro.* 132. b. 164. b. 167. b. *Lam.* 510.

A Certificate of a Certiorari ought not to omit that which did authorize the Just. to make the record, neither ought they to certifie more than the Certiorari warranteth them. *Lam.* 516.

If the Certiorari vary from the Record, the Iustices need not to certifie. *Cro.* 132. b. *Dal.* 416.

A Certiorari is to send up the Indictment of *A.* in which others are joyntly indicted, the Justices need not make certificate of any but of *A.* onely. *Cro.* 132. a. *Lam.* 517. *Dal.* 416.

A Iustice may without Certiorari send into the Kings Bench a Recognisance of the Peace, an Indictment found before him, or a force recorded before him. *Dal.* 416. *Cro* 132. b. 133. b. but not without Certiorari, if he be put out. *ibid.*

No bills of Indictment, ryot, forcible entrie, assault, or battery found at the Quarter Sessions, shall be removed by Certiorari, unless it be delivered in open Quarter Sessions, and the indicted bound in ten pound to the prosecutor, with such sureties as the Iustices shall allow, to pay within one moneth after the conviction of the indicted, to the prosecutor such costs and dammages as the said Iustices shall allow, otherwise the Iustices to proceed to tryall. 21 *Jac.* c. 8. *Dal.* 219. 220.

Vide plus, Certificate and Iustices of Peace.

Challenge.

One indicted of felony, may challenge as many as he will, shewing cause: but without cause he may not

not challenge above twenty. 22 *H.*8.*c.* 14. *Lam.* 554. 28 *H.*8.*c.*1.

What ſhall be a good challenge of a Iuror.

That he was an indictor of him. *Lam.* 554.

That he hath no lands to cleer the yeerly value of 40 ſhillings. *Lam.* 554.

In Cities and Boroughes, that he hath no goods moveables worth 40 pound. *Lam. ibid.*

That he is not *Probus & Legalis*, as, if he be attainted of felony, forgery, perjury, &c. *Lam ibid.*

Champerty.

Champertie is when one for hope of having part of the thing in variance, moveth, or cauſeth the ſuit to be moved at his own coſt, and for it he is to be fined. 33 *E.c.*1. *Lam.* 441.

Chance-medly, *vide* Homicide.

Chaſtiſement, *vide* Correction.

Church and Church-yard.

Maliciouſly to ſtrike with a weapon in the Church or Church yard, or to draw a weapon to that end, is loſs of one of his ears, or having no ears to be marked on his cheek with the letter F. 5 *Ed.*6.4. *Lam.* 419.

To keep Fair or Market in the Church-yard. *ibid. Stat. Wint.* 13 *Ed.*1.*c.*6. *Lam.* 419.

Conviction of any upon the ſtatute, 5 *Ed.* 6.*c.* 4. may be by the Iuſtices of Peace at their Quarter Seſſions, by verdict, teſtimony of two, or by confeſſion. 5 *Ed.*6.*c.*4.

Execution of the forfeiture upon the ſtatute of ſtriking in Church-yards, to be awarded by the Iuſtices of Peace before whom ſuch perſon ſhall be convicted. 5 *E.*6.*c.*4.

The Iuſtices may out of Seſſions call Miniſters and

and School-masters before them, that have houses, Chancels, and Church-yards belonging to them that are in decay, and order them to amend them; and if not, they may levy by distress and sale of their goods so much as will do it: *Ord: August.* 1654.

Churchwardens.

Churchwardens, and Constables, or one of them, or where none be, the Constable of the Hundred must once every yeer present at the Quarter Sessions the monethly absence from Church of Popish Recusants, and the names of every of their children of nine yeers old and above, abiding with their parents, and as neer as they can the age of their children, and the names of such Recusants servants. 3 *Jac. ca.* 4. *Lam.* 437 penalty 20 shil. *Vide* Recusants.

Churchwardens are to gather for the prisoners. *vide* Prisoners.

Churchwardens and Overseers of the poor are yeerly to make accompt to two Iustices, whereof one ought to be of the Quorum, *viz.*

1 Of all summs received by them rated, or not received.

2 Of such stock as they or any of their poor have in their hands. 43 *El. c.* 2.

3 What apprentices they have put out.

4 What poor they have set to work or relieved.

5 What poor they have suffered to wander and beg.

6 If they they have monethly met to take order for the poor.

7 If they have assessed the inhabitants and occupiers of lands, &c. in their Parish, and such as are of ability with indifferencie.

8 If they have endeavoured to levie and gather such assessements. *Dal.* 96. Defaults in any the premisses is 20 shillings. *ibid.*

Two

"Two such Iustices may make their warrant
"both to the present and subsequent Churchwarden
"and Overseers, to levy all sums and arrerages o
"every one that shall refuse to contribute accordin
to the assessement. And in default of distres
"commit them to the Gaol till payment be made
"*Dal.*95.

Churchwardens and Overseers refusing to mak
a true accompt to the Iustices of all such summes o
money, or denying to pay the arrerages, to be com
mitted to the Gaol without bail till accompt made
and the arrerages paid to the new Overseers. *Dal.* 96

Churchwardens and Constables yeerly upon
Tuesday or Wednesday in Easter week, must cal
together the Parishioners.

And first choose Surveyors for the highways, *Da*
67. 3. *P. & M. cap.* 8.

2 Appoint six days for that purpose, to be befor
Midsummer next following. *Dla. ibid.*

3 Give notice of the said six days openly in th
Church the Sunday after Easter. *Dal. ibid.*

Clerk of the Peace.

Clerk of the Peace must be present at the Session
to read inditements, and inroll the acts of the Sessi
ons, as also to draw Process. *Lam.* 393.

Clerk of the Peace must record Proclamation
for the rates of servants wages, and inroll the discharg
of apprentices. 5 *El. cap.* 4. *ibid.*

He must keep the counterpane of the Indenture o
armour. 4 & 5 *P. & M. c.* 2. Repealed by 1 *Jac.* 2
circa finem.

And the books of Licences given to Badgers an
Loaders of corn. 5 *El. cap.* 12. *Lam.* 393.

And of those that are licensed to shoot in gun
2 *Ed.* 6. *cap.* 14.

He must certifie into the Kings Bench transcrip

of inditements, outlawries, attainders, and convictions had before the Justices of Peace within the time limited, under the pain of 40 shillings. 34 *H.* 8. *cap.* 14. *Lam.* 388. & 393.

Recognisance of the Peace is brought into the *Justos Rotulorum*, and if the party grieved will not sue it, the Clerk of the Peace may call upon it for the King. *Lam.* 394. 2 *H.* 7. *cap.* 1.

The office of the Clerk of the Peace is in the gife of the *Custos Rotulorum*. 37 *H.* 8. *c.* 1. *Lam.* 394.

What Records the Clerk of the Peace is bound to certifie.

Vide Certificate.

The Clerk of the Peace his fees.

Vide Fees.

He must record presentments for not coming to Church, and the certificate of not taking the oath of Allegiance. 3 *Jac. cap.* 4. *Lam.* 393.

"Clerk of the Peace is Clerk to the Justices, as "the Statute. 12 *R.* 2. *cap.* 10. nameth him, and not "Clerk to the *Custos Rotulorum* onely. *Lam.* 394.

"Clerk of the Peace may exercise his place by "himself, or by his deputy, sufficiently instructed in "the Law, and admitted by the *Custos Rotulorum*. *Lam. ibid.*

Clerk of a Justice his fees. *vide* Fees.

Clerk of the Crown, what Records he ought to certifie. *vide* Certificate.

Clerk of the Market.

At this day there is no great need of him, for the Justices of Assise, of *Oyer* and Terminer, and of the Peace, and Sheriffs in their Tourns, and Lords in their leets, may and do inquire of false weights, and measures: *Coke* Instit. 4 part 273.

By

By a new Act made 17 *Caroli*, one Justice of Peace upon proof of one witness upon oath against a man that he doth sell by, or keep any other weight or measure, then according to the great standard, whereby any thing is sold or bought, may direct his warrant to the Churchwardens and Overseers of the poor to levy five shillings of his goods to the use of the poor, and for want of distress to imprison him till payment.

Some of the Justices ought to sit with the Clerk of the Market, to see that he doth seal any weight or measure but once; that he take onely for the first sealing; that he take no mony for Bills, &c. That all be done by the great standard, Chief Officers of Corporations, and Lords of Franchises being Clerks of the Market are to execute their office as formerly, and not refuse any weights or measures which are just, their fee being offered, nor allow any that are false upon pain of five pound. And one Justice may by his warrant to the Churchwardens and Overseers of the poor upon oath of one witness make to levy by distress and sale of goods five pound for the first, ten pound for the second, and twenty pound for the third offence against any Clerk of the Market for taking more then his just fees, or for signing weights or measures, fining or amercing of any without due triall: The person fined upon this Act not to be fined upon any other Law. This Act extends not to corn rents upon Colledge leases, nor to water measures in maritime Towns: any wrongfully upon this Act may give it in evidence, and recover treble dammages. 17 *Caroli. Act.*

Clerk of the Market taking money to dispense with faults, riding with more then six horses, tarrying longer then is necessary, loseth for the first offence 100 shillings, for the second 10 pound, for the third 20 pound. 23 *R. 2. cap.* 4. Clerk of the Market may take no money for any bills. He ought to seal no

Bushell

Bushell but once. After the first sealing to take any thing is extortion. *Dal.* 150.

Churches and Reparations thereof, and of Church Duties and Rates, see Reparations.

Clergy and Sanctuary.

One Justice of Peace may take out of the Sanctuary him that is abjured thither, being indited of any offence punishable by death, done after he is become a Sanctuary man, and may commit him to the Gaol in the County where the inditement is found, till he be tried. 22 *H.* 8. *cap.* 14.

In what offences Clergie is not allowable.

Breaking a house by day, and taking away any thing to the value of five shillings. 39 *El. cap.* 15. *Lam.* 564. 565.

Conjurers or Witches, their aiders and counsellers. 5 *El. cap.* 16. *Lam.* 564. but 1 *Jac. cap.* 12. repealeth 5 *El. cap.* 16.

Receivers or aiders of Seminary Priests or Jesuits. 27 *El. cap.* 2. *Lam.* 563.

Conspiring to burn, take, or raze any Castle or Bulwark of the kings. 14 *El. cap.* 1.

Rape or ravishment, } 18 *El. c.* 6. *Lam.* 564.
Burglary, }

Carnally abusing a woman within the age of ten yeers. *Lam.* 564. 18 *El. cap.* 6.

Principall or accessary before the fact of taking away of a maid, widow or wife, that hath lands or substance, &c. 3 *H.* 7. *c.* 2. & 39 *El. c.* 9. *Lam. ibid.*

Buggery. 5 *El. c.* 17. *Lam.* 564.

Murderer. *Lam. ibid.*

Poysoner of malice prepensed. *Lam. ibid.*

Robbing in day, or nigh a high-way. *Lam. ibid.*

Horse-stealer. *Lam. ibid.*

Church-robber. *Lam. ibid.*

Robbing of a house, any being in it. *Lam.* 564.

Robbing of booth or tent, any being in it, *Lam. ibid.*

Commander of petty-treason. *Lam. ibid.*

Commander of wilfull murder. *Lam. ibid.*

So of robbery in any dwelling-house, in or neer any high-way. *Lam.* 565.

Stabbing one who hath no weapon drawn, nor stroke first, if he die thereof within six moneths. 1 *Jac.* 8. *Lam.* 565.

"To burn any dwelling house, or any part there-"of. *Lam. ibid.*

To burn any barn having any corn in it. *Lam.* 565.

Reporting false rumours against the King, devising or writing seditious or slanderous matter against the King. 23 *El. c.* 2.

Souldiers departing without license of their Captain. *Lam.* 565.

Souldiers or Mariners, which wander begging. 39 *El. c.* 17.

Or exceed the time of their license. *ibid.*

Or forge, or use forged licence, knowing it. *ibid.*

The second conviction for forging false deeds. 5 *El. c.* 14. *Lam* 566.

Privily to take away goods or money above twelve pence from the person of another. 8 *El. c* 4. *Lam.* 566.

Calling himself an Egyptian, or keeping their company, contrary to the statutes. 1 & 2 *P. & M. c.* 4. 5 *El. c* 20 *Lam.* 566.

A confined Recusant refuseth to abjure the Realm, or will not go, or returneth without licence. 35 *El. c.* 1. 2.

"To acknowledge any fine, recovery, deed in-"rolled, statute, recognisance, bail, or judgement "in the name of another not privy thereunto. 21 *Jac. cap.* 26. *Dal.* 276.

To what persons Clergy is grantable.

To a bastard. To bigamus. T

To whom not grantable.

Women, *vide* Women.

One that hath had it formerly, except he be within holy orders. 1 *E.* 6. *c.* 12. *Lam.* 563.

In what cases Clergy is allowable.

Clergy shall be allowed in all cases, saving such as are mentioned, 1 *E.* 6. *c.* 12. or specially since that time taken away. *Cro.* 118. *nu.* 33.

Clergy shall be allowed but once. 4 *H.* 7. *c.* 13. *Lam.* 563. except he be within orders. *Cro.* 118 a *nu.* 36.

A Woman convicted of felony above 12 pence, and under 10 shillings, wherein a man may have his Clergy, shall be burnt in the hand with T. and whipped. 21 *Jac. c.* 6.

Upon an attainder by outlawry, Parliament, standing mute, challenging peremptorily above twenty, where the statute taketh it away upon conviction by verdict, *vide Lam* 567 if Clergy shall be denied.

Justices of Peace may give Clergy to a felon, if the Ordinary be present; but they cannot fine the Ordinary for his absence, but must reprieve the prisoner *Lam.* 551. *vide* Ordinary.

If the Enditement doth not directly agree with the words of the statute that taketh away Clergy, the prisoner may have his Clergy. *Lam.* 566.

After conviction and Clergy allowed, and the party burnt in the hand, he may be indicted of another felony. *Lam.* 559 18 *Eliz. cap.* 6.

Where any man hath Priviledge of Clergy, as a clerk convict, and also in all cases of felony wherein the benefit of Clergy is restrained, excepted, or taken away by statute (wilfull murder, and poysoning of malice prepensed, excepted) any Lord of the Parliament, or Peer of the Realm sitting in Parliament,

ſhall, upon his requeſt and prayer, alledging that he is a Lord or Peer of the Realm, though he cannot read, without burning in the hand, loſs of inheritance, or corruption of bloud, be adjudged for the firſt time onely as a clerk convict. 1 *Ed.* 6. *c.* 12. but in all other caſes, wherein Clergy is taken away by any ſtatute ſince, 1 *Ed.* 6. he is in the ſame degree as a common perſon. *P.R.* 213. *vide* Ordinary.

Cloth.

Every Juſtice beyond Trent hath ſome power in ſearching out the deceit of ſtraining or ſtretching thoſe countrey clothes. 39 *El.c.* 20.

Any Juſtice of Peace next unto any Town corporate or City beyond Trent, is to joyn with the City or Town in appointing Overſeers for cloth. *ibid.*

Two Juſtices of Peace muſt appoint yeerly Overſeers of cloth ſold in Towns not being corporate, and to ſwear them to ſee execution of that part of the ſtatute which is yet in force. 3 *E.* 6. *c.* 2. *Lam.* 359. *Dal.* 42.

One commanded by two Juſtices of the Peace to appear to be made an Overſeer of keeping the ſtatute of clothing, and without reaſonable excuſe refuſing, ſhall forfeit 40 ſhillings, one half to the two Juſtices, *Lam. ibid.*

Two Juſtices of Peace may diſpoſe the mony riſing of deceitfull cloth ſtretched. 39 *El.c.* 20.

Woollen cloth preſented by a retailer thereof to two of the next Juſtices of Peace, as defective againſt this ſtatute, and the ſtatute 4 & 5 *P.* & *M. c.* 5. ſhall cauſe the ſame to be cut into three equall parts, whereof one part to the King, one part to the preſenter, and the third part to the Juſtices themſelves. 5 *E.* 6. *cap.* 6. *Lam.* 359.

Juſtices of Peace faulty in executing the ſtatute againſt

againſt the deceitfull ſtretching of Northern cloth, loſe 5 pound. 39 *El. c.* 29.

Clothier muſt ſet his ſeal of lead to the cloth, to declare the length, to be tryed by water, or be fined. 3 *Ed.* 6. *cap.* 2. *Lam.* 469.

Cloth is not to be ſtretched above a yard and a half in length, and half a quarter in breadth, nor to ſhrink more in wetting, on pain of 40 ſhillings, *ibid.*

Browns, Blews, Pewks, Tawnies, and Violets, muſt be perfectly boyled, grained, or maddered upon the woad, and ſhot with good cork or orchall, otherwiſe the dyer loſeth 20 ſhillings for every offence. 3 *Ed.* 6. *c.* 2. *Lam.* 469.

Wooll for Ruſſets, Marbles, Grayes, Bayes, or for hats or caps, muſt be perfectly woaded, boyled, and maddered, or loſe 20 ſhillings every cloth or wool for 2 cloth. *ibid.*

Dying with Brazill, thereby to make a falſe colour, is loſs of 20 ſhillings a time. 3 *E.* 6. *c.* 2. *Lam.* 469.

Putting ſtix, chalk, ſtarch, or other deceivable things upon any cloth, except Devonſhire and Cornwall ſtraits, loſeth 40 ſhillings a time. *Lam. ibid.*

Selling cloth by leſs meaſure then after the true contents by the yard and inch, loſeth 6 ſhillings 8 pence a yard. *ibid.*

Putting to ſale cloth preſſed to be uſed in England, Wales, or Ireland, loſeth the cloth or value. *ibid.*

Refuſing to be ſearchers of cloth, or neglecting to ſearch once a quarter, loſeth as the offenders. *ibid.*

Interrupting the ſearch of cloth, is loſs of twenty pound. *ibid.*

Kentiſh cloth above ſix pound price, muſt contain betwixt 28 and 30 yards in length being wet, and 7 quarters broad within the lifts, and being well dreſſed, muſt weigh 76 pound, or loſe 20 ſhillings for want of length and breadth, and ſo much for wanting of 4 pounds of the weight. 5 *Ed.* 6. *cap.* 6. *Lam.* 470. See now, 4 *Jac. cap.* 2.

Deceit in linnen cloth, whereby it is became worse for good use, is loss of cloth, fine, and imprisonment for a moneth. 1 *El.* c. 12. *Lam.* 471.

Offences against the statute, concerning the stretching of Northern clothes, to be presented by the Overseers at the next Quarter Sessions after the offence, and there to be heard and determined. 39 *El.* 20.

Offences of the Justices of Peace in neglecting their duty, by not executing of the statute of deceitfull stretching of Northern clothes, to be heard and determined by Just. of Assise. 39 *El.* c. 20.

Commission of the Peace.

The commission of the Peace is determinable at the Pr. pleasure, either by expres word, implication, or death, or by the presence of higher power, or by occasion of another office, as to be made Sheriff. *Lam.* 66, 67, 68, &c.

"If Just. sit by commission and do not adjourn "the Sessions, the commission is void. *Brook Com-* "*mission* 12. *Cro.* 188. a.

Commission granted *hac vice tantùm*, is determined after once sitting, if they do not adjourn the same *Lam.* 71.

A new commission of the Peace *hac vice tantùm*, will determine the old. *Lam.* 68.

A commission of the same kinde in the same limits to other commissioners without word of discharge, is a revocation of the former by implication. *Cro.* 189. a. *Lam.* 67. *Dal.* 11.

A proper Justice is made within a speciall liberty, without words of prohibition, the Justices of the shire may meddle there *Lam.* 68, 69.

The making of a new commission is no determination of the old, till it be read or proclaimed at some Session, or in a full County, or at the Assises. *Dal.* 11. *Lam.* 69.

The

The old commiſſion determining by a new, no proceſs or ſuit hanging before the old commiſſioners, is diſcontinued thereby. *Dal.* 12. *Cro.* 189. a. *Lam.* 69.

Acceſſion of a higher title taketh not away the authority of a Juſtice of Peace. *Dal.* 9. *Cro.* 188. a. *Lam.* 70.

A new commiſſion to hear and determine felonies, determineth the old commiſſion of the Peace, but not concerning the Peace. *Lam.* 72. *Brook Commiſſion.* 8.

A Juſtice of Peace, in making juſtification by vertue of his office, needeth not to ſhew the commiſſion of the Peace, becauſe the keeping thereof belongeth to the *Cuſtos-Rotulorum*. *Lam.* 387, 388. *Cro.* 120. b. *nu.* 3.

"By 17 *R.* 2. *c.* 10. In every commiſſion of the "Peace, two men of law (amongſt others) are to "be aſſigned, *viz.* to proceed to the deliverance of "felons. *Dal.* 50.

"Two were joynt commiſſioners, and it is preſented that one onely ſate, and fined the Country; "and it was held void. But if one ſit, and it is recorded "that it is done before both, it is good: So of Juſtices of Peace, *Cro.* 121. a. *nu.* 19. & 189. a. for a- "verment ſhall not be taken againſt the act of the "Juſtices or Commiſſioners. *Cro.* 189. a.

"A Juſtice cannot be made by writ but by com- "miſſion, but may be diſcharged by writ, which is "in nature of a *Superſedeas*. *Brook Commiſſ. nu.* 18.

"If the Juſtices in Eyre, after Proclamation made, "do come into the Country, and ſit there by ver- "tue of their authority, then ceaſeth the power of "the Commiſſioners of Peace. And ſo likewiſe, if "the Kings Bench ſhould remove into the County. "*Lam.* 71. *vide Cro.* 188. b. & 189. a. *Brook Commiſſ.* "*nu.* 18. But *Lambert* maketh a *Quære*, for that Juſt. "of *Niſi prius* do ordinarily bring a Commiſſion of "*Oyer* and *Determiner*. *Lam.* 71. and yet no determini-

" tion of the Commiſſion of Peace.

" And *Brook* Commiſſ. 8. and *Cro.* 188. b. *Vn novel* " *commiſſion de oier & terminer felonies determine le* " *ancient Com. del P. quant al Oyer, &c. felonies, mes* " *nemy quant al Peace. Et iſſint vide Commiſ. determin* " *in part, & remain pur le remnant.*

Commons.

Commons in forreſts and elſewhere, muſt be driven yeerly within 15 days after Michaelmas by the owner or officers, on pain of 40 ſhillings a time. 32 *H.* 8. *c.* 13. *Lam.* 483.

Vide plus Horſes.

Common Prayer.

If any Miniſter have refuſed to uſe the Common Prayer, or to miniſter the Sacraments according to the Book of Common Prayer, in ſuch order and form as is mentioned in the ſaid Book, or wilfully ſtanding in the ſame, have uſed any other form in open Prayer, or in adminiſtration of the Sacraments, or ſpoken any thing in derogation of the ſaid Book, or any part thereof, for the offence it is loſs of his ſpirituall living for a yeer, and impriſonment for ſix moneths without bail: for the ſecond, deprivation and impriſonment for a yeer: for the third, deprivation and impriſonment all his life. 1 *El. cap.* 2. 23 *El. cap.* 1. *Lam.* 417.

Any having in play, ſong, or rhythme, or by any open word ſpoken in derogation of the Book of Common Prayer, or any thing therein contained, or having cauſed or maintained any Miniſter to ſay any other Common Prayer, or miniſter Sacraments in other manner, or interrupting any Miniſter to ſay open Prayer, or adminiſter the Sacraments according to the ſaid Book, he loſeth 100 Marks, or ſix moneths im

imprisonment without bail for the first offence: and for the second, 400 Marks, or twelve moneths imprisonment: and for the third, all his goods, and imprisonment for his life. *ibid.*

Concealment, *vide* Jurours.

Confession.

After a free confession of an indictment, and submission to fine in an action at the parties suit, for the same trespass, he shall not plead Not guilty: otherwise of a confession *sub modo*, as when he putteth himself *sub gratia Regis. Lam* 530.

Quære whether if he once make a fine, he shall not be estopped to plead Not guilty. Also whether the Justice of Peace may drive the party to an absolute confession, or to his traverse. *ibid.*

The voluntary confession of an offender against the statute, 1 *Jac. c.* 9. 4 *Jac. c.* 5. before a Justice of Peace is a conviction, and after confession his oath is sufficient proof against any other offending at the same time. 21 *Jac. c.* 7. *Dal.* 26.

Conjuration.

Conjuration of wicked spirits is felony. 5 *El. c.* 16. *Lam.* 227.

Vide plus Witchcraft. 1 *Jac. c.* 12.

Conservers of the Peace.

Coroners are conservers of the Peace, and may in some cases imprison. *Lam.* 395.

Constables are conservers of the Peace within their limits. *Dal.* 2. *Lam.* 14.

Constables.

See this matter amply discussed in *Skarnets* case *Trin.* 35. *Eliz. Rotulo* 1458. *Dal.* the last page 4 and 5 very learned matter.

Every Constable at the Common-law before the statute 3 *Hen* 7. *c.* 3. & 1. & 2 *P.* & *M. c.* 13. might bail one suspected of felony by obligation, or take surety of the Peace by obligation; or commit him to prison that made an affray, till he found sureties. *Lam.* 15.

Constables or other Officers may lay no hands on two intending to fight, till weapons drawn, or offer of blow. *Lam.* 132.

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them. *Lam.* 132. 133.

Constable or Officer presented at the Sessions for not endeavouring to part an affray, being present, shall deeply be fined. *Lam.* 133.

Not so if he be told of it being absent. *Dal.* 33. *at quære contrà. Cro.* 146. b.

Two fighting in a house, the doors being shut, the Officers may break open the doors to see the peace kept. *Lam.* 133.

Constable taking an affrayer must imprison him in the stocks, not in his house; and that till he may provide to carry him to the Gaol, *Lam. ibid.* or to a Justice of Peace. *Lam.* 133. *Dal.* 33. 35.

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray. *Lam.* 134.

Constable or Officer may defend himself, and apprehend and imprison the party that shall make an affray upon him. *Lam. ib. Dal.* 35. *Cro.* 147. a.

One Justice of Peace may command that two Constables be chosen in each Hundred. *Lam.* 186.

Vide

Vide plus Affray, Arrest, Rogues.

High-constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders. *Dal.* 3. *Coke.* 11. 43, 44.

Choosing of High-constables useth to be at the Quarter Sessions; if out of Sessions, by the major part of the Justices of that division where they dwel, and use to be sworn at the Sessions, or by warrant from the Sessions. *Dal.* 46.

Vide plus Prison.

Conventicles.

Those are sometimes called Conventicles, wherein many do impart with others their meaning to kill a man, or to take anothers part in all things. *Lam.* 173.

Champerty also, maintenance, conspiracies, confederacies, and giving of liveries, other then to meniall servants and officers, be contained under the word Conventicles. *Lam. ibid.*

Conies *vide* Hunting.

Corn.

Certificate of one Justice of Peace, joyned with the Customer of the place of unlading and selling of corn, grain, or cattel carried by water from one place to another of this Realm, unto the Customer and Controller of the place where the same was imbarked, is sufficient upon the statute of forestalling. 5 *Ed.* 6. *c.* 14. 13 *El. c.* 25.

One having sufficient corn, buying seed, without bringing so much as he buyeth, to sell the same day as the Market goeth, loseth double. 5 *Ed.* 6. *c.* 14. *Lam.* 451.

Vide plus Transportation.

Cur-

Cutter and carriers away of corn. *vide* Hedge-breakers.

Coroners.

Coroners ought to certifie their inquisitions at the general Gaol-delivery, and not at the Sessions. 1. & 2 *P.* & *M.* 13. *Lam.* 395.

Coroners being parties to the Exigents, and Judges of the outlawry, ought to be present at the Sessions. *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison. *ibid.*

Coroners may be convicted of offence against the statute of 1 *H.*8. *c.*7. by examination of witnesses, and touching extortion or not executing their offices, before a Justice of Peace. *Cro.* 130. b. *Lam.* 434.

Coroners fees, *vide* Fees.

Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unless he lay four acres of his own free-hold inheritance lying neer to the said cottage, to be continually manured therewith all so long as that cottage shall be inhabited, forfeiteth ten pounds, except in a City, corporate or market Town, or ancient Borough, or being the dwelling house of workers in minerals, coal-mines, quarries of Stone or slate, makers of brick, tile, lime, or coal, not being above a mile from the workers, and onely used for the habitation of such workmen, or for sailers, or men of manuall occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper of forrests, chace, warren, or park; or cottage for a common beardsman

or ſhepheard of any town, or wherein any poor, lame, ſick, aged, or impotent perſon ſhall dwell; or hath been decreed to continue for a dwelling by the Juſtices of Aſſiſe, or of the Peace in open Aſſiſes or Quarter Seſſions 31 *El. c.* 7. 39 *El. c.* 3. 43 *El. c.* 2. *Lam.* 476. 35 *El. c.* 6. for continuing the cottage 40 ſhillings a moneth.

None to maintain or uphold any cottage, not having four acres to it, except as before. *ibid.*

Owner or occupier of a cottage muſt not ſuffer more houſholds then one to dwell in a cottage. 31 *El. c.* 7. except it be by order of the Juſtices at the Quarter Seſſions, with leave of the Lord of the waſte, at the charge of the Pariſh, Hundred, or County. 39 *El. c.* 3. 43 *El. c.* 2. *Lam.* 611. Offences againſt the ſtatute of cottages & inmates, are to be heard and determined at the Quarter Seſſions. 31 *El. c.* 7. *Lam.* 614. and a Decree may be made at the Quarter Seſſions for continuance of a cottage that hath not four acres of land. *ibid.*

"A Decree may be made at the Quarter Seſſions "for the continuance of a cottage that hath not four "acres of land. And the Juſt. may enquire, hear and "determine of cottages and inmates againſt the ſta-"tute of 31 *El. c.* 7. *Lam.* 614.

County.

A Juſtice of Peace in one County, purſuing a felon into another County where he is taken, he ſhall be committed to the Gaol of the County where he was taken. *Dal.* 297, 298.

Cozeners and Cozenage.

Any falſly and deceitfully getting into his poſſeſſion money or goods of other mens, by colour of falſe privy tokens, or counterfeit letters, and convicted thereof

thereof at the Quarter Sessions by examination of witnesses, shall suffer any corporall punishment except death. 33 *H.* 8. *c.* 1. *Cro.* 83. *a.* 130. *b.* *Dal.* 48. *Lam.* 442, 535, 569. 609.

Two Justices of Peace, one being of the Quorum, may bind over to the next Sessions any such suspected person, or may imprison or bail them, untill the next generall Sessions. *Dal.* 48.

One Justice of Peace (as it seemeth) may bind Cheaters to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction. *Dal.* 48.

Crosses, *vide Agnus Dei.*

Crosse-bowes and Hand-guns.

Every person may attach an offender against the statute, 33 *H.* 7. *c.* 6. and carry him to the next Justice of Peace in the same County. *Dal.* 65.

The Justice upon due consideration may send the offender to the Gaol, till he have paid the penalty of the statute of 33 *H.* 8. *c.* 6. *sc.* 10. li.

The particulars of the said Statute.

1 None under an 100 pounds *per annum* may shoot in, or keep gun, dag, pistoll, crosse-bow, or stone-bow.

2 No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100 pounds *per annum* may seize the gun, and must break it, or lose 40 shillings, if he break it not within twenty days. *Lam.* 296. 480. but may keep the crosse-bow or stone-bow. *Dal.* 65.

3 No person not having an 100 pounds *per annum*, may carry in his journey any gun charged, or bow bent, but onely in time and service of war or going to the musters.

4 None

4 None may shoot in a gun neer to a market Town, but in defence of his house or person, or at a Butt.

5 The master may not command the servant to shoot, except at a Butt or Bank of earth, or in warr.

Exceptions out of the Statute.

1 Shooting at a Butt or Bank of earth by servingmen, whose masters are inabled by statute.

2 Inhabitants of market Towns.

3 Dwellers alone, or neer the Sea-side.

4 Gun-makers or Gun-sellers.

5 Those that have placards may shoot according to their placards. *Dal.* 65, 66.

Any under the value of 100. pounds *per annum*, licensed to shoot in Crosse-bow or Hand-gun, is to present his name to the next Justice, by him to be presented and recorded at the next Quarter Sessions, or else the Justice to lose 20 shillings. 2 *Ed.* 6. *c.* 14. *Lam.* 301. *Quære* if this be now in use.

Any licensed at Quarter Sessions to shoot in Hand-gun or birding piece for Hawkes meat, is to shoot onely at fowl not prohibited, and to be bound in 20 li. 1 *Jac. c.* 27.

Any two Justices of Peace may commit to the Gaol for three moneths any that shoot with gun or bow at any Partridge, Phesant, house-Dove, Mallard, or at such fowl; or at any Hare. 1 *Jac. c.* 27.

"If any person not having lands, &c. of the yeerly value of 40 li. or not worth in goods 200 li. "shall use any gun, bow, or crosse-bow, to kill "any Deer or Conies (except such person shall have "any ground incloſed, used for the keeping of any "Deer or conies, &c. or be Keepers or Warreners) "any person having in lands 100 li. by yeer in fee "or for life, may take from such offendor such Guns, "Bows, or Crosse-bows, and keep them to his own "use. 1 *Jac. c.* 13. *Dal.* 65.

Cu-

Currers, *vide* Leather.
Customer, *vide* Corn.

Custos Rotulorum.

Custos Rotulorum hath the custodie of the Record and of the Commission, and ought to see that the be brought to the Sessions. *Lam.* 387.

Custos Rotulorum is always a Justice of the Quorum. *Lam.* 387.

Custos Rotulorum alone cannot summon a Session seeing that he hath no more authority in that behalf then any of his felows hath. *Lam.* 382.

Cutpurse.

Taking of the goods of another to the value of 12.d. from his person into his own possession, without assault or fear, is felony without clergy. 8 *El. c.* 4. *Lam.* 270. *Dal.* 262. *& Lam.* 422. 566.

But it will not amount to felony unto death, unless the thing taken be of the value of twelve pence. *Lam.* 270. *Dal. Quære.*

The thief must have an actuall possession of the thing severed from the person of the owner. *Lam.* 271. *Dal.* 262. *Cro.* 35. *anu.* 17.

Cutting out of tongues.

Cutting out of tongues and putting out of eyes, is felony, if it be done of set purpose. 5 *H.* 4. *c.* 5. *Lam.* 420.

Cutting of a Pond head.

Destroying of the head or damm of any pond, moat, stew, or severall pit wherein fishes are put by the

the owner thereof, or have wrongfully fished in any of the same, to the Intent to take away the fish against the owners will. 5 *El. c.* 21. *Lam.* 446. See 3 *Jac. c.* 13. he is to suffer imprisonment, and to be bound to his good behaviour for seven yeers.

Deer and Deer-hayes.

Justices of Peace may not receive an indictment for killing a Hart proclaimed, for the jurisdiction of it belongeth to the Justices of the forrest. 21 *H.* 7. *c.* 30. *Lam.* 505.

One convicted of unlawfull taking or killing of Deere, must pay treble dammages to the partie, three moneths imprisonment, and after to remain there till he put in sureties for the good behaviour for seven yeers. 5 *El c.* 21. 3 *Jac. c.* 13. *Lam.* 571.

To sell, or buy to sell any Deer, Hare, Partridge, or Pheasant, except house Partridge or Pheasant, or brought from beyond the seas, loseth for every Deer 40 shillings, every Hare or Partridge 10 shillings, and every Pheasant 20 shillings. 1 *Jac. c.* 27.

Vide plus Hunting, and Buckstalks.

Demurrer.

If one indicted demurreth upon the evidences, the Justices ought to record it. *Lam.* 539.

Deputy.

A Judge cannot make a Deputy. *Lam.* 64.

Divine Service.

Any above the age of sixteen yeers, that repaireth not faithfully and diligently to his Parish Church or Chappell

Chappell accuſtomed, or (upon ſome uſuall place where Common Prayer is to be uſed upon every Sunday and other Holy-days, and hath not there orderly and ſoberly abiden during the time of ſuch Common Prayer, Preaching, or other ſervice of God, loſeth 12 pence for every offence; to be levied by the Church-wardens to the uſe of the poor of the ſaid Pariſh, and to be puniſhed by the cenſures of the Church. 1 *El.* c. 2.

It is lawfull for one Juſtice of Peace in the limit, diviſion, or liberty where the offender dwelleth, in not coming to Church, according to 1 *El.* c. 2. upon proof of default, by confeſſion of the party or oath of witneſs, to call the party before him; and for want of ſufficient excuſe and proof thereof to the ſatisfaction of the ſaid Juſt. the ſaid Juſtice may give his warrant to the Church warden of the ſaid pariſh under his hand and ſeal to levy twelve pence for every default by diſtreſs, and in default thereof to commit the offender to priſon till payment made. 3 *Jac.* c. 4.

Vide plus Recuſants, and Sunday.

Doggs, *vide* Hunting, and Partridges.
Drovers, *vide* Badgers.
Dyer, *vide* Cloth.

Drunkenneſs.

Any Juſtice of Peace upon his own view, confeſſion of the party, or proof of one witneſs upon oath hath power to convince any perſon of drunkenneſs. 21 *Jac.* 7.

Any, within ſix moneths after the offence committed, lawfully convicted of drunkenneſs, loſeth five ſhillings, to be paid after conviction to the Church-wardens of the Pariſh where the offence ſhall be committed; and refuſing and neglecting to pay the ſame,

ſame, to be, by warrant from the Juſt. convicting, levied on his goods; if he be unable, to be ſet into the ſtocks ſix hours, and upon conviction of the ſecond offence to be bound with ſureties in ten pound to his good behaviour 4 *Jac. c.* 5. and for want of ſureties to be ſent to the Gaol.

If the officer charged is negligent in levying or in collecting he loſeth 10 ſhillings, to be levied and diſpoſed as the penalty it ſelf. 4 *Jac c.* 5.

Churchwardens to be accountable to the uſe of the poor for the penalties by them received upon the ſtatute of drunkenneſs. *ibid.*

Conſtables, Churchwardens, and Tithingmen, in their oaths for their office are to ſwear to preſent offences againſt the ſtatute of drunkenneſs. 4 *Jac.* 5.

Offences againſt the ſtatute of drunkenneſs to be inquired after, and preſented before the Juſtices of Aſſiſe, or Juſtices of Peace at their Seſſions, and proceeded upon ordinary indictment. *ibid.*

Offenders againſt the ſtatute of drunkenneſs not to be twice puniſhed for the ſame offence. *ibid.*

Of Duels and Challenges.

Whoſoever ſhall make, ſend, or accept, or knowingly carry any Challenge, ſhall be impriſoned for ſix moneths, and before inlargement enter into Recogniſance with two or more ſureties for the behaviour for a yeer.

Any man receiving a Challenge and not diſcovering of it to ſome Juſtice of the Peace amounteth to an Acceptance.

Death inſuing upon any Duell is murder, fighting without death, or ſeconding in any Duell, and proved before the Juſtices of Peace incurreth baniſhment, and if he return it is felony.

Provocation by diſgracefull words, geſture, or otherwiſe, is indictable at the Seſſions, fineable, good behaviour

behaviour, and reparation to the party, and upon re-fusall thereof to be sent to the house of correction.

And all ministers of Justice are injoyned to ap-prehend any persons fighting or intending to fig any Duell, and to bring them before the next Justic of the Peace, there to be bound over to the ne Sessions upon pain of ten pound upon negle thereof.

And the like Law and punishment shall be f persons challenging, or accepting a challenge in *Eng-land*, although they fight in another place.

No Certiorari shall be allowed to remove a such inditement. *Ord.* 29 *June* 1654.

Ecclesiasticall causes and persons.

ECclesiasticall persons are subject to arrest f the Peace, unless they be attendant on divi service. *Lam.* 93. *Dal.* 166.

Vide plus Treason.

Egges of wilde-foul.

Eggs of any wilde fowl usually eaten, taken fr the place where they were layed, or destroyed betw the first of *March* & the last of *June*, one years imp sonment, and lose after a rate for each egg, *viz.* E "of crane or bustard xx d. butter, her on or sho "lack viii d. mallard, teal, and other wild fo "one peny. 25 *H.* 8. *c.* 11. 3 *E.* 6. *c.* 7. *Lam.* 453.

To take away the egges of any hawk out of woods or ground of any other person, three mon imprisonment, and bound to his good behaviour seven yeers. 5 *El. c.* 21. *Lam.* 446.

To take or cause to be taken upon his own or oth mens grounds, the egges of any falcon, goshawk, l ner, or swan, one yeer and a days imprisonment fine. 11 *H.* 7. *cap.* 17. *Lam. ibid.*

Taker or willing destroyer of egges of Partridge, Phesant, or Swan, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three moneths, unless he pay to the Churchwardens of the Parish in one of the places to the use of the poor 20 shillings. 1 *Jac.c.*27.

Vide plus Partridges, Phesants, and Fowlers.

Egyptians.

One Justice of Peace may within one moneth after the arrivall seize all the goods of any out landish persons, calling themselves Egyptians, that shall come into the Realm, or company with them, or disguise themselves like them, and keep to his own use the on moity, accounting in the Exchequer for the other, restoring to them again their goods, that prove by two witnesses that they were craftily or feloniously stoln from them, upon pain of forfeiture of double the value to the prover. 22 *H.* 8. *c.* 10. *Dal.* 49. *Lam.* 195.228.371.427.

After the moneth it is felony, and then they shall have the whole. 1 & 2 *Ph.* & *Mar.* 4. *Quære*, whether the stat. 22 *H.* 8. be still in force, or altered by the statute of 1 & 2 *Ph.* & *M.c.*4.

Embezeling of records, *vide* Records.
Embracer, *vide* Maintainer.

Enditements.

"Enditement is the verdict of Jurours that be "charged to enquire of the offence that is presented "to them. *Lam.*486.

All enditements ought to contain certainty, and therefore five principall things be requisite in presentments. *Lam.* 487.

1 The

1. The name, ſurname, and addition of the party endited.

2. The yeer, the day, and place in which the offence was done.

3. The name of the perſon to whom the offence was done.

4. The name and value of the thing, in which the offence was committed.

5. The manner of the fact, and the nature of the offence; as the manner of the treaſon, murder, felony, or treſpaſs. *Lam.* 487.

Enditement of the acceſſary to felony, muſt contain the name of the principall. *Lam.* 488.

Miſnamer in an Enditement ſhall not be made good by an *alias dictus*. *Lam.* 490.

Where the name of the party offended cannot be known, it may be *cujuſdam ignoti*, becauſe of the Kings advantage thereby by forfeiture. *Lam.* 494.

Any certainty whereby the day and year may be known, is ſufficient. *Lam.* 491.

An offence done before midnight, muſt be ſuppoſed the day before; if after, then the day after. *Lam.* 492.

One ſtriketh one day, whereon he languiſheth, and dieth on another; the Enditement muſt ſuppoſe the laſt day, on which he died. *Lam.* 491.

Enditement ſuppoſing the fact done a day not come, is not good. *Lam.* 492.

Enditement or preſentment for an omiſſion, as *A.* hath not ſcoured ſuch a ſewer, needs not to ſet down day nor year. *Lam.* 492.

Enditement ſuppoſing an offence done at two ſeverall times, not good. *Lam.* 492.

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no ſuch place,

place, the Enditement is void. 9 *H.5.c.* 1. 18 *H.6.c.* 12. *Lam.* 493.

If the ſtroke or poiſoning be in one county, and the death in another county, the Enditement in the county where the death is ſhall be good. 2 & 3 *Ed.6. c.*24. *Lam.* 493.

Certainty of the perſon to whom the offence is done. Lam. 494.

The goods of a Parſon of a Church, *Bona Rectoris. Lam.*468.

The goods of the Church, *Bona parochianorum in cuſtodia Gardianorum.* ib.

The goods of Maior and Comminalty, and the Maior dieth before the Enditement, *Bona Communitatis. Quære*, becauſe they have no ſuch name of corporation.

Goods taken in a mans life time, and he maketh executor and dieth, *bona Teſtatoris.*

Goods taken after his death, *Teſtatoris in cuſtodia Executorum.*

Goods hanging over a Tomb, *Executoris.* A Grave-ſtone, *bona Eccleſiæ.*

My goods are taken by a treſpaſſor, and taken from him again, the Enditement ſhall be *bona* of him that had the had laſt poſſeſſion. *Lam.*496.

Of the owner in the keeping of the bail, where they were taken from the Baily. *Lam.* 496.

Bona capellæ in cuſtodia, or *bona domus*, or *Eccleſiæ tempore vacationis*, is good. *Lam.* ib.

The name of the thing muſt be compriſed. *Lam. ibid.*

Bona & catalla in treſpaſs or felony is not good.

If dead things, it may be *bona & catalla*, expreſſing the names thereof in certainty.

If living things, it ſhall not ſay *bona & catalla*, but *equum, bovem, ovem, &c. ibid.*

The

The value is to be declared in felony to make it appear petty larceny; in treſpaſs to aggravate the fault.

Enditement of things *feræ naturæ*, as Deer, Hares, Partridges, or Pheſants, is not good, unleſs they be taken in a Park or a Warren that be liberties. *Lam.* 469. 497.

Charters, their value cannot be eſteemed. *ibid.*

It muſt be ſaid, *Pretii*, of living things. *Lam.* 497.

So of dead things in the ſingular number. *ibid.*

So of things that go by weight and meaſure. *Lam.* 497.

So of coin not currant. *ibid.*

It muſt be ſaid, *ad valentiam*, of dead things in the plurall number, not going by weight and meaſure. *Lam.* 497.

Coin counterfeited. *ibid.*

Where the number ought to be expreſſed, as of the taking of Doves in a Dove-houſe, or young Hawks in a wood, there it muſt be *pretii* or *ad valentiam*. *Lam.* 497.

Coin currant carrieth his value with it. *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *Lam.* 498.

Nature of the offence.

Treaſon muſt have *Proditorie*.

Murder *Murdravit*, which implieth *ex malitia præcogitata*. *Lam.* 500. *Cro.* 111. a. 103. b.

Burgary, *Burglariter*.

Felony, *felonicè*. *ibid.* ſo petty larceny, *felonicè*. In rape, *felonicè rapuit*. *Lam.* 501.

Furatus ſeemeth good without *felonicè*.

In felony, *cepit* alone, or *abduxit*, or *aſportavit* is not good, *Lam.* 501. but *cepit & abduxit*.

In treſpaſs or felony, the words *contra pacem* muſt be uſed. *Lam.* 501.

In forcible entry, *vi & armis* be needless. *ibid.*

Upon a statute, *contra formam statuti in hujusmodi casu editi & provisi.* ibid.

Where many statutes concern one offence, *contra formam diversorum statutorum.*

Where after an acquittall one shall be endited for the same felony.

Where the first Enditement was void for insufficiency of matter of felony. *Lam.* 556.

Tryall in a wrong County. *ibid.*

Misprision of the party that should bring the action.

Where the first Enditement was as principall, the second Enditement as accessary to the same felony after the fact. *Lam.* 557.

Where he shall not be again endited.

Where the Enditement was good.

Though it were by another name, if he be known by both. *Lam.* 555.

Though it suppose the same felony done in another yeer. *Lam.* 556.

Though the Proces was erroneous. *ibid.*

Enditement at the Sheriffs Turn lawfully taken, must be taken by the Justices, and by them received. 1 E 4. *cap.* 2. *Lam.* 504.

No Enditement can be taken nor enquiry made, but before two Justices, one to be of the Quorum. *Lam.* 48.

Enditement upon penall statute, whereof the King is onely to reap the forfeiture, must be within two yeers after the offence.

And where a common person is, it must be within one yeer, except the statute do otherwise direct. *Lam.* 487.

" Constable presents a fault at the Sessions, which " belongeth to his office, which is allowed by the " Inquest, it is good: Otherwise it shall not serve " for an Edictment. *Crom.* 123 b.

" A man may be indicted for the King upon any " penal statute. *Cro.* 101. a. *nu.* 109. a. *nu.* 3

" If there be two villages in one Parish, the in- " dicted shall be named of such a village *in Parochia* " *de A.* and not of the Parish only. But if there be but " one village there, the name of the Parish onely, or " the name of the village onely, or of the village in " such a Parish is sufficient. And so if there be divers " hamlets. *Cro.* 102. *a. nu.* 16.

" In an Enditement, *Si sit de pecunia numerata,* " *exprimere debet numerum & genus pecuniæ: si massa* " *rudis, tum valorem: si formata, tum qualitatem &* " *pretium: si sit pannus, tunc colorem, pretium, & nu-* " *merum ulnarum: si animal, tunc genus, pilum, &* " *pretium; & quòd felonicè cepit illud contra pacem.* " Cro. 103. a. nu. 35. Stam. 81.

Enquiry.

Justices of Peace may onely enquire, and can pro- ceed no further, as in

1 Certain offences against the Supremacie. 23 El. c. 1.

2 Treason, and misprision of treason, made by the 23 *El. c.* 1.

3 Offences against the statute of false rumors against the King. 23. *El. c.* 1.

Enquirie of a forcible entrie, *vide* forcible entrie.

Enquirie by presentment, *vide* Presentment.

Enquir

Enquirie by Examination, *vide* Examination.

Enquirie by information, *vide* Information.

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and he that was hurt dieth thereof within a year and a day, the Constable shall make a fine to the value of his goods, but it is no felony. *Lam.* 134.

To suffer a felon wilfully to escape, is felony; but a negligent escape is onely to be fined. 1 *R. c.* 3. *Lam.* 440. *Dal.* 276.

Wilfull escape of one arrested for larceny, manslaughter *per infortunium*, *se defendendo*, is not felony; if the act were felony at the time of the escape. *Lam.* 230. *Dal.* 278. *Crom.* 39 *a.nu.* 5.

Wilfull escape by the Gaoler or keeper of a felon, is felony in the Gaoler, not in the felon: if the escape be caused by a stranger, it is felony. *Lam.* 229. *Dal* 278.

Escape suffered by him that receiveth a known felon, is no felony. *Lam.* 230. *Dal. ib.* but shall be accessary, for that he was not arrested. *Cro.* 39. *a.nu.* 4.

Vide plus Prisoners.

A prisoner under arrest onely escaping, the escape must first be presented, before he that suffered the escape shall answer it. *Dal.* 278.

A Justice sendeth for a felon out of the Gaol and freeth him without bail; it is felony in the Justice. *Dal. ibid.*

A Justice *pro defectu scientiæ* baileth one not bailable, it is but a negligent escape. *Cro.* 39. *b.nu.* 4. *Dal.* 279.

Offender upon his examination before a Justice con-

confesseth the felony, who letteth him go without commitment or bail; it is a voluntary escape, and so felony in the Justice. *Cro.* 39. *a. nu.* 7. 44. *a. Dal.* 304.

A Town not walled must answer the escape of a manslayer in the day time. 1 *Cro.* 40. *b. nu.* 1 *Dal.* 299.

The Hundred must answer for a man slain out of the Town, and for insufficiency the County shall be charged. *Dal. ibid.*

Gaoler or other officer suffereth his prisoner to go abroad for a time, though the prisoner return as he was prescribed, or let his prisoner go by bail or bastion; it is a negligent escape, and fineable. But *quære*, for prisoners ought to be kept *in salva & arcta custodia. Dal.* 276. 7 *Cro.* 39. *b. nu.* 5.

"A Constable voluntarily suffereth a thief to "drown himself, this is felony in the Constable. "But if the thief (without the assent of the Constable) kill, hang, or drown himself, it is a negligent "escape in the Constable. *Dal.* 276.

Voluntary escape of one arrested or committed for felony, is felony in the Gaoler; if for treason, it is treason; if for trespass, it is trespass. *Dal.* 278.

Escheators.

Escheators other then those of a City or Borough that takes upon him the office, not having lands in the Shire of twenty pounds *per annum*, or for life at least, or that hath sold or set to farm the office, or made a deputy for whom he will not answer, and whose name he doth not certifie within 20 days into the Exchequer, shall be fined 40 pound. 12 *E.* 4. *tit. Law.* 429.

An Escheator taking for execution of any writ in any County above forty shillings, or forty shillings where the land is not held *in capite*, shall be fined forty pound. 23 *H.* 6. 6. 17 *Law.* 430.

Escheator

Escheator taking above 15 shillings for finding an office not exceeding five pounds a yeer, loseth forty pounds. 33 H.8. *ca.* 22. *Lam.* 430.

Eveſdroppers.

Eveſdroppers which ſhall by night eveſdrop mens houſes, are to be bound to the good behaviour. *Dal.* 191

Evidences.

Juſtice of the Peace muſt binde over informers for felony to appear and give evidence againſt the felon at the next generall Gaol-delivery. *Dal.* 49.

Juſtice of Peace muſt binde ſuch as declare any thing materiall to prove the felony, to appear at the next Gaol-delivery, and give evidence. *Dal.* 393.

"If he which giveth evidence of felony to a Juſt. "of Peace againſt another, wil not be bound to give "evidence at the Aſſiſes, he ſhall be committed, or "bound to his good behaviour. *Cro.* 102. *Hut.* 26. "*Dal.* 35.

Examination taken by a Juſtice of Peace in one county, may be certified into another county, and there read, and given in evidence. *Dal.* 303.

Eſtreats.

Eſtreats are the extracts of fines, forfeitures, and amerciaments made by the Clerk of the Peace by indentures, the one delivered to the Sheriff, the other to the Barons of the Exchequer. *Lam.* 581.

Eſtreats of the penalty for ſhooting in guns, are to be recorded and ſent into the Exchequer by the Juſtice that had the Examination of the matter. *Lam.* 297.

Sheriff or his miniſter that ſhall leyie any of the Kings debts, without ſhewing the party the eſtreats under the Exchequer ſeal, ſhall be fined and pay treble damages to the party. 42 *E.* 3. *c.* 9. 7 *H.* 4. *c.* 3. *Lam.* 432.

He that estreateth issues of other then such who were chargeable or charged, loseth 6 Markes to the King, and as much to the party. 27 *El.c.*7. *Lam.*432.

Examination.

Felon brought before a Justice, must be examined before he be committed to prison, & the information of those that bring him must be put in writing within two days after, and the party bound to appear and give evidence at the next Gaol delivery. 2. *&* 3 P. *&* M. *c.*10. *Lam.*212. *Dal.*49.303.

Before the statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum*: but the offendor shall not be examined upon oath. *Dal.*307.

Circumstances observable in examination of a felon. *Lam.*218. *Dal.*303. *Cro* 98. *a.*

In what offences conviction shall be by examination, *vide* the severall offences.

Conviction cannot be by examination onely, but where the statute giveth it, either by referring it to the discretion of the Justices, or specially limiting it. *Lam.*534.

Where the statute limiteth conviction to be by examinaton generall, a Justice of Peace may examine as well the offenders as witnesses. *Lam.*535.

Where the examination of a Justice of Peace is the conviction of the party, it ought to be upon oath: but when it is but to inform the Jury upon that enditement, it needs not. *ibid. Lam.*536.

See the opinion of Sir *Edward Coke*, 3 *Institut.* 79. that it may be upon oath against the King: See also the Act 31. *Eliz cap.*4. there also explained.

Examination of witnesses is to be taken as well against as for the King. *Dal.* 308. but *quære* whether it

it may be upon oath, which maketh againſt the King.

Confeſſion of an offender before a Juſtice of Peace is not conviction, except he confeſs the ſame again upon his triall or arraignment. *Dal.* 311.

" Juſtice of Peace may examine upon oath him " that informeth againſt a felon: for the informer " may dye before the aſſiſes, and then the informati- " on without oath is not of ſuch validity. *Dal.* 307. " *Lam.* 215. *Cro.* 194. *a.nu.* 5.

Extolling forain power, *vide* Treaſon.

Extortion.

Ordinary, Archdeacon, Officiall, Sheriff, Eſchea-ror, Coroner, Under-Sheriff, Bailiff, Gaoler, or other Officer, that by colour of his office taketh more then his fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing. *Lam.* 434. &c.

Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable. *Cro.* 57. *b. nu.* 2.

The Sheriff or Gaoler taking any thing of a Conſtable for bringing a felon to the Gaol, it is extortion 4 *E.* 3. *c.* 10. *Cro.* 57 *b. nu.* 5.

" The Gaoler takes viii. d. of one in priſon to let " him have liberty, eaſment, or favour, it is extorti- " on. *Cro.* 59 *a. nu.* 5.

If the Ordinary or his miniſter take any thing to allow a Schoolmaſter to teach children, 23 *El. c.* 1. *Cro.* 58. *a. nu.* 13.

" If the Ordinary take ought for letters of admi- " niſtration or probates of wills, where the goods " amount not above 5 li. wherein the writer ſhall " have vi. d. onely: or if they be above 5 li. and not " 40 li. the Ordinary 2. s. 6. d. and the writer 12. and " if above 40 li. the Ordinary 2. s. 6. d. and ſcribe " 2. s. 6. d. or 1. d. for every 10 lines ten inches long,

" at the writers choice, *Cro.* 61.*nu.* 52. 21 *H.*8.*c.*6. it
" is extortion, and the Ordinary forfeiteth 10 li.

Vide Fees.

The Marshall detaining a Prisoner after he is discharged by the Court, for any thing due to him but his fees. *Cro. ibid.*

The Ordinary citing a lay person to appear in the Spirituall Court, to depose there as a witness. *Cro.* 59.*b.nu.* 35, 36, 37. & 60.*nu.*44. 46.48. & 231. *a.* & *Fitz. J.P. fol. penul.* it is extortion.

Vide plus Fees.

A man prescribeth to have 4 pence of every one whose beasts are taken in his ground, dammage feasant being expounded, and to make amends to him at his will, it is extortion if he take it. *Cro.* 58. *b.nu* 18.

To take any thing for a mortuary, contrary to the statute, 21 *H.*8.*c.*6. where the goods come not to twenty Nobles besides debts, or for married women or infant, or one that keeps no house, or wayfaring man, or any that is not resident where he died, is extortion. *Cro.* 59.*a.nu.*27. 21 *H.*8.*c.*6.

" To take above 3.*s.*4.*d.* for a mortuary, when the
" goods amount to 10 Marks and under 30 li. or a-
" bove 6 shillings 8 pence, where the goods are 30
" pounds, and under 40 pounds: or above 10 shil-
" where the goods are above 40 pounds, the debts
" payed, is extortion. *Cro.* 59.*a.nu.* 28. 21 *H.*8.*c.*6.

Faires and Markets.

HE that keepeth a Fair or Market in a Church-yard, shall be fined. *Stat. Wint.* 14 *E.*1.*c.* 6. *Lam.* 419.

False imprisonment, *vide* Arrests.

False tokens, *vide* Cozeners.

Fees.

The Sheriff shall have upon arrest by Bill, Writ, or Warrant, 20 pence, the Bailiff that maketh the arrest, 4 pence; the Gaoler, if he be committed, 4 pence; and for the obligation 4 pence, and no more, on pain of 40 pounds. 23 *H.* 6. *c.* 10. *Cro. b. nu.* 18. 176. *b. nu.* 19.

Bailiffs of liberties are to have like fees as the Sheriffs and their ministers have out of liberties, and like punishment for extortion. 27 *H.* 8. *c.* 24. *Lam.* 434. *Cro. ibid.*

Clerk of the Peace to be fined.

For taking above 12 d. for inrolling a bargain and sale of lands not exceeding 40 shillings a yeer, or 2 shillings 6 pence if it do exceed 40 shillings a yeer. 27 *H.* 8. *c.* 16. and the Justice of Peace the like for taking above the said sums in the said cases. *Cro.* 59 *a. Lam.* 436.

For taking above 12 pence for a recognisance of one that taketh a rogue into his service for a yeer *El. c.* 5. *Lam. ibid.*

For taking above 2 shillings for a licence and recognisance of a Badger, Drover, Lader, or Kidder, and registring the licence of them both. 5 *El. c.* 12. *ibid.*

For taking above 12 pence for a licence and recognisance to shoot Hawks meat. 1 *Jac. c.* 27.

Clerk of a Justice of Peace to be fined for taking above 12 pence for a recognisance of an Ale-house-keeper. 5 *E* 6. *c.* 25. *Lam.* 436.

Coroner refusing to do his office of one slain by misadventure without fees, loseth 40 shillings 1 *H* 8. *c.* 7. *Lam.* 434.

Coroner taking above 13 shillings 4 pence for do-

ing his office of one ſlain and murdered, of the goods of the ſlayer and murderer; if he have none, of the Town where he was ſlain in the day, and was ſuffered to eſcape. 3 *H.* 7. *c.* 1. *Lam. ibid.*

Maiors to have for ſealing.

Buſhels and other meaſures, a peny.

Weights, *viz.* a hundred weight, 1 peny; half a hundred, a halfpeny; leſs a farthing; and taking above, they loſe 40 ſhillings. 7 *H.* 7. *c.* 3. 11 *H.* 7. *c.* 4. *Lam.* 437.

Parſon, Vicar, or Curate taking above four pence for entring into the Church-book licence to eat fleſh on fiſh days. 5 *El. c.* 5.

Or above 2 pence for regiſtring a Teſtimoniall of any ſervant going from one place to another. 5 *El. c.* 4. *Lam.* 435.

Ordinary or his ſcribe or regiſter, that hath taken more for the probate of a teſtament or letters of adminiſtration then 6 pence for the ſcribe for writing the probate of the teſtament that ſhall be brought written in parchment, and 6 pence for the adminiſtration, where the goods be not above 5 pound; if above 5 pound not above 40 pound, then 2 ſhillings 6 pence for the Ordinary, and 12 pence for the ſcribe; if above 40 pound, 2 ſhillings 6 pence for the Ordinary, and 2 ſhillings 6 pence for the ſcribe; or 1 peny for every 10 lines 10 inches in length, at the ſcribes election: and the like for every copy of a teſtament or inventory, or elſe after the rate of the lines as before, loſeth 10 li. and ſo much as is taken, to the party. 21 *H* 8. *c.* 6. *Cro.* 61. *a. nu.* 2. *Lam.* 434.

Eſcheators fees, *vide* Eſcheators.

Receiver, Treaſurer, or Miniſter of the King that taketh of any that hath fee or penſion of the King other fee then is given by ancient laws and ſtatutes, *viz.* 4 pence for payment of every ſumm, for ſeven-teen 6 ſhillings

6 ſhillings 8 pence. 33 *H.8.c.39. 7 E.6.c.1. Cro.58.a. nu.9.*

Taking above 4 pence for impounding one diſtreſs, loſeth 5 pound to the party grieved beſides ſuch money as he ſhall take above the ſumm of four pence. 1 & *P.& M.c.12.ib.*

" A man attainted of treſpaſs cometh in *gratis*, " and findeth ſurety for his fine, he ſhall pay no fees " to the Sheriff or Gaoler. *Cro.176.a. nu.6.* ſo of him " that is indicted before Juſt. of Peace., and is com- " mitted till he pay his fine.

" The officer is to take nothing of him againſt " whom proceſs is granted to come before a Juſt. of Peace to finde ſurety for the peace. *Cro. 176.a.nu.8.*

Fees for a Juſt. of Peace are (*ut dicitur*) *Cro.176.a.nu.9.*

" For a recogniſance for the peace, 2 ſhil.

" For a recog. to bail a priſoner, 2 ſhil.

" For a *Superſedeas* of the peace, 2 ſhil.

" For a warrant of the Peace under ſeal, 2.s.

" For releaſe of the peace, 2 ſhil.

" For a warrant which concerneth not the peace, " 4 pence.

" For the recogniſance of an Alehouſe-keepers, " 12 pence. *Cro.nu.10.5 E.6.c.25.*

" *Vide plus Dal.385.*

Felo de ſe.

A man that kills himſelf, either with a meditated hatred againſt his own life, or out of diſtraction or other humour, is *felo de ſe*, and forfeiteth his goods reall and perſonall chattels to the King, and debts due upon ſpecialty, and alſo upon ſimple contract, or without ſpecialty. *Cro.4. 95.a. Dal.240.*

" Fighting, the one of them falleth on the ground, " and draweth his knife, the other falling upon him, " doth alſo fall on the knife and is ſlain, he is in a

forfeit

"fort *felo de se. Dal.* 274. *Cro.* 28. *a. nu. Pax. reg.* 122. "*b. Stat.* 16 *a*

An infant, or *non compos mentis*, killing himself, doth not forfeit, but a lunatick doth. *Dal. ibid. Lam.* 247.

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of record. *Dal. ib.*

He forfeiteth no lands, nor is his blood corrupted, *Dal. ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body, as being cast into the sea, or secretly buried, the Justices of Peace may enquire thereof, and a presentment before them intituleth the King to his goods. *Dal. ibid. Co.* 5. 110. *b.*

Felony.

Felonies are either { by the Common law, / Statute law.

By the Common law, all kinde of homicide not warranted, Burglary, Theft, Burning of houses, Rescous, and Escapes. *Dal.* 238.

Vide their severall titles.

Felonies by Statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realm, or any sworn to the Kings Councell, or the Steward, Treasurer, or Controller of the Kings houshold. 3 *H.* 7. *c.* 14. *Dal.* 275.

Breaking of prison by one being therein for felony, or a prisoner for felony. 1 *E.* 2. *de prisonam frangent. Dal. ibid.*

And if he escape going to the Gaol. *Cromp.* 49. *b.*

If under arrests for felony or suspicion, whether in

in the Gaol or out, it is breaking of priſon though he be not indicted of felony. *Cro.* 31. *anu.* 1 *P. R.* 147.

A ſtranger breaketh the priſon, or openeth the ſtocks, or makes reſcous of one impriſoned or arreſted for felony, who eſcapeth, it is felony in them both. *Dal.* 275. *Cro.* 38. *a.nu.* 1.

Quære, if a ſtranger diſturbe the arreſting of a felon. *Dal. ibid. Fitz. Juſt. P. fol.* 114. *Lam.* 229.

Reſcuing a priſoner going to execution, is felony. *Dal. ibid.*

Gaoler, Conſtable, or other having a priſoner under arreſt for felony, voluntarily ſuffereth him to eſcape, it is felony onely in him that ſuffereth the eſcape. *Dal. ibid. Lam.* 229.

If the priſoner eſcape, by negligence of his keeper, it is felony onely in the priſoner. *Dal. ibid.*

Eſcape before arreſt is no felony, but the officer may be endited and fined. *Dal.* 276. *Lam.* 230. *Cro.* 39. *a. nu.* 5.

Buggery with mankinde or beaſt.

Burning of houſes or ſtacks of corn.

Congregations and confederacies holden by Maſons.

Cutting out of tongues, or putting out eyes.

Cutting Powdike, or bank in Marſh-land.

Conjuration or invocation of evill ſpirits. 1 *Ja.* 12.

Conſultation with an evill ſpirit, &c. *Vide* 1 *Jac.* 12.

Embezeling the Kings ordinance, armour, &c. to the value of 20 ſhillings, though at ſeverall times. 31 *El.* 4. *Dal.* 287.

Embezeling of any record, writ, &c. 1 *H.* 6. *c.* 12 *Dal. ibid.* } *Theſe two belong*
Raſing of a record is finable at the Kings will, &c. 8 *R* 2. *c.* 4. } *not to Juſtices of the Peace.*

Forging of evidences, &c. the ſecond time. 5 *El.* c. 14.

Gaoler

Gaoler enforcing his Priſoner to become an approver.

Hawks embezelled, and not brought to the Sheriff.

Hawks concealed, or ſtollen from the owner.

Hunting Deer or Conies in the night, and upon examinaton concealing the offence, or diſobeying the arreſt for ſuch offence.

Taking a tame beaſt or other thing in a park by way of robbery.

Marrying a ſecond husband or wife, the firſt living. 1 *Jac.* c. 11.

Multiplication of gold or ſilver.

Infected with the plague, going into company contrary to command. 1 *Jac.* c. 31.

Wilfull poyſoning, if the party dye within a yeer and a day after.

To receive, relieve, or maintain Popiſh Prieſts.

Recuſants refuſing to abjure, or return after departure.

Purveyour taking for the Kings houſe any thing above twelve pence.

1 Without warrant under the great ſeal. *Vide Dal.* 284.

2 Buying any thing in any other manner then is contained in their warrant.

3 Taking any carriage in any other manner then is compriſed in their commiſſion.

4 Shall carry away any thing againſt the owners will, without paying or agreeing for the ſame.

5 Shall not make his proviſion and purveyance by the teſtimony and apprizement of the Conſtable and four neighbours ſworn, if the purveyour and owner cannot agree, and ſhall not deliver Tales or Indentures ſealed with his ſeal touching the ſame.

6 Or ſhall take more victuals or carriages then he ſhall deliver unto the Kings houſe.

7 Or take ſheep in wool betwixt Eaſter and Midſummer

ſummer at ſmall prices, or more then be ſufficient for the Kings houſe, and carry them to his own, and ſhear them.

In every of theſe caſes it ſeemeth to be felony in ſuch purveyour, their deputy and ſervants.

A Carer of any ſubject or officer taking any thing againſt the owners conſent, and not paying preſently. 36 *E.*3.*c.*6.7 *R.*2.*c.*8.23 *H.*6.*c.* 14. *Dal.*287. *Cro.*48.*a.*

Incorrigible Rogues baniſhed the Realm, and returning without licence. 39 *El.c.*4.

Robbing houſe, barn, or ſtable in the day, to the value of 5 ſhillings, though no body be within. 39 *El.c.*15. no clergy.

Robbing any houſe by day or by night, any perſon being therein, and thereby put in fear, *ibid.* without clergy.

Robbing any perſon in part of his dwelling, any of his houſhold being within, *ibid.* without clergy.

To rob any Booth in Faire or Market, any perſon thereto belonging being within ſleeping or waking, *ibid.* ſans clergy.

Servant (other then an apprentice) to whom money, goods, or chattels, &c. are delivered to keep by maſter or miſtreſs to the value of forty ſhillings, do go away therewith, or convert them to his own uſe, to the intent to ſell the ſame, or defraud his maſter or miſtreſs. 21 *H.*8 *c.*7.5 *El c.*13. *Dal.*264.

Souldiers going out of the Realm to ſerve a forain Prince, not having firſt taken the oath of allegeance. 3 *Jac.c.*4. *Dal.*284.

A Gentleman, or of higher degree, Captain, or other Officer in Camp, going to ſerve a forainer before he is bound with 2 ſureties to the King, not to be reconciled to the Pope, &c. nor to make nor conſent to any conſpiracy againſt the King. 3 *Jac.c.*4.

Souldiers having taken preſſe-money, not going with their Captain; or being in ſervice departing with-

without licence. 18 *H.* 6. *c.* 19. *Coke* 6. 27. 7 *H.* 7. *c.* 1. *H.* 8. 5.

Mariners and Gunners taking presse-money to serve the King, and departing without licence. 5 *El. c.* 5.

Souldiers and Mariners which settle not themselves to some good course of life, but wander idlely. 39 *El. c.* 17.

Souldiers and Mariners landing, and not having Testimoniall from some Justice of Peace neer the landing. *ib.*

2 Or exceeding the time limited wilfully, fourteen dayes. *Vide* 43 *El. c.* 3. that they shall be punished as Rogues.

3 Or forge, or have forged Testimoniall, knowing it to be forged.

4 Or being retained in service after arraignment, doth depart within the yeer without the Masters licence. 39 *El. c.* 17.

" In all these former cases, see the stat. 43 *El. c.* 3.

" That Souldiers and Mariners begging or counterfeiting a Certificate from their Captain, &c. shall " be adjudged and punished as Rogues. *Dal.* 285. " *Vide* Rogues.

Transporting live sheep, the second offence is felony. 8 *El. c.* 3.

Ravishing a woman with force, though consenting afterward. 13 *E.* 1. 3 *W.* 2. 18 *El. c.* 6.

All abettors in rape are principals. *Dal.* 289. *Cr.* 47. *b.*

To ravish a harlot against her will, is rape. *ibid.*

To take any maid, widow, or wife having lands or goods, or being heir apparent to her ancestor against her will, unlawfully.

And to receive any so taken knowing thereof, or to procure and abett the same. 3 *H.* 7. *c.* 2. *Dal. Cr. ibid.*

To abuse a woman carnally under 10 yeers of age. 18 *El. c.* 6.

To

To take a mans wife with her husbands goods against her will, or her husbands. 13 *E.*1.34 *West.* 2. *Stamf.*94. *Dal.*290. *Cro.*35. *a.nu.*2.

Feloniously to take goods out of any Church or Chappel. *Lam.* 420.

A woman delivered of a bastard, doth by drowning or secret burying thereof by herself or other conceal the death thereof, so that it may not come to light, if it were dead born or alive, it it is murder in the mother, except she can prove by one witness that the childe was born dead. 21 *Jac.c.*27. *Dal.* 290.

To acknowledge any fine, recovery, deed inrolled, statute, or recognisance, bail, or judgement in the name of another not privie to the same, is felony without clergy. 21 *Jac.c.*26. *Dal.*284.

The offence of Incontinency occasioning Bastardy, and the punishment thereof is altered by a late Act made which brancheth it into Incest, Adultery, and fornication: Incest and Adultery are made felony without benefit of Clergy.

For fornication both parties to be imprisoned three moneths, and for want of security for the good behaviour for one whole yeer next ensuing: the second offence is felony.

One that keepeth a Bawdy house, for the first offence to be whipped and pillared, and branded with a hot Iron in the forehead with B, and after to the house of Correction for three years, and for want of surety for the behaviour during life: the second offence is felony without Clergy.

But note for Adultery the woman must know her husband to be living, or not three years absent, or by common fame reputed dead, in such cases both are felons.

So any man lying with a married woman, knowing her to be married: Nothing can be upon proof of the Husband and wife onely, done against either the other. *Act* 20 *May* 1650.

" Felony

" Felony done in one Kings days may be tryed in
" another Kings time. *Cro.* 37. 8. *nu.* 31. *Dal.* 297.

" A felony is done in one county, and the felon
" flyeth into another, and is there taken, he is to be
" committed to the Gaol of the county where he was
" taken, and be removed by writ to the Gaol of
" the county where the felony was done. *Dal.* 298.

" For ſtealing goods in one county, and carry-
" ing them into another county, the felon may be
" indicted in either county. But for robbery the in-
" dictment muſt be in the county where the robbery
" was *Dal.* 298. *Bro. Cor.* 140. *indict.* 26.

" One ſtealeth ſtollen goods, the owner may in-
" dict the firſt or the ſecond. *Dal* 298.

" Any man may proſecute for ſtealing *bona ignoti.*
" *Dal. ibid.*

" If the owner will not charge the felon, any other
" (after proclamation made, *If any will inform for*
" *the King*) may ſafely inform, indict and give evi-
" dence. *Dalt.* 298. But

" A Juſtice of Peace hearing of any that can in-
" form, may ſend for him, examine him, and bind
" him to give evidence *Dal.* 208.

Felony of his own goods, *vide* Theft.
Ferrets, *vide* Hunting.

Fewell.

One Juſtice of Peace may ſet on the Pillory, in the next Market town to the place of offence, any perſon convicted of breaking the aſſiſe of fewell, and not able to pay the forfeiture, there to be at eleven of the clork on the Market day, with a billet or faggot bound to ſome part of his body. *Quære*, whether one Juſtice may convict him alone. 7 *E.* 6. *c.* 7. *Lam.* 196.

Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender, for the offence committed against him. *Lam.* 574.

Upon payment of the fine, or upon pledges found by a recognisance to pay it, the offender ought to be delivered *Lam. ibid.*

The assessment of fine belongeth to the Justices before whom the conviction is lawfully had. *Lam.* 576.

Stander by when a man was slain, is to be imprisoned till he make his fine, because he did not his best to attach the murderer: so of other felonies. *Lam.* 132. 289.

Fine upon a forcible entry or detainer upon offenders convicted of record by a Justice of Peace, and by him committed to the Gaol, shall be assessed by the same Justice, and upon bonds with sureties he may enlarge them. *Tamen quære*: and estreat it, and send it into the Exchequer: but it is best to leave the fine to the discretion of the Kings Bench. *Lam.* 158. 159 *Dal.* 58.

Upon conviction for offences, where no fine certain is limited, no fine can be assessed till the offender be brought in by *Capias pro fine*, or otherwise, unless it be for Ale-houses and High-ways. *Lam.* 573.

Where any statute speaketh of fine and ransom, the ransom ought to be at least treble the fine. *Lam.* 575. the opinion of Sir *Edward Coke* is, that fine, and ransom are all one, *vid.* well discussed. *Coke institut.* 127. a.

Where the statute maketh an offence fineable in generall terms, or at the Kings will, the Justices of Peace before whom the conviction is had, may assesse

ſeſſe the fine, which is fitteſt to be done in ope
Seſſions. *Lam.* 576.

Fines upon the ſtatute of tyles, of croſſe-bows, an
of Alehouſes, by expreſs words of the ſtatute, ma
not be altered. *Lam.* 578.

Fines muſt be reaſonable and juſt, according
the quality of the offence. 34 *Ed.* 3. *cap.* 1. *Lam.* 577.

After one is taken by a *Capias pro fine*, the Juſtic
of Peace are to aſſeſſe the fine by their diſcretion, a
to deliver the party. *Lam.* 574.

Fines of Rioters, *vide* Riots.
Fines of Brevver, Baker, Tipler, *vi*
Aſſiſe of bread.

Fiſh.

Stealers of fiſh out of ponds, and cutters of pon
heads, are to be bound to the good behaviour, an
three moneths impriſonment, and to the party griev
his treble dammages. 5 *El.* 21. *Lam.* 446. See 3 *Jac.* 1

If any caſt nets into waters, by which the fry
fiſh may be taken, or take Salmons betwixt the n
vity of Mary and S. Martin, or young Salmons b
wixt the midſt of April and Midſummer, one Juſti
may puniſh them for the firſt offence, by burni
their nets and engines; for the ſecond, by 3 mone
impriſonment; for the third, by one yeers impriſo
ment; and for any of them, by fine at the diſcret
of Juſtice. 17 *R.* 2. *c* 9. *Lam.* 190. 454. 576.

Forfeitures upon the ſtat. 3 *Jac. c.* 12. where
offence is committed, in deſtroying the ſpawn
brood of ſea-fiſh, may be levied by diſtreſs and
of the offenders goods, by warrant from one Juſti
of Peace to the Conſtables or Churchwardens. 3 *J*
ca. 12. the forfeiture given is 10 ſhillings, the
moity to the poor, &c. the other to the perſon
ſhall ſue for the ſame.

He that shall by preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any days now usually observed for fish days, is for necessity of salvation of souls, or is the service of God, otherwise then other publick laws be, shall be punished as spreaders of false news are and ought, &c. 5 *El.c.* 5. 1 *Jac.c.*29. *Lam.* 442.

Fish-days.

Any, except aged, sick, with child, or licensed, eating flesh in Lent, or on fish-days, loseth 20 shillings and one moneths imprisonment. 5 *El.c.*5. 27 *El.c.*1. *Lam.*458. 35 *Eliz.cap.*7. 1 *Jac.c.*29.

Taverners, Inne-keepers, common Tablinghouse, Tipler, or Alehouse-keeper, offending against the statutes, 5 *El.c.*5 & 1 *Jac.*29 for killing, dressing, and eating of flesh, is to lose the flesh, and the penalty of 5 *El.c.*5. which is 3 pounds. 1 *Jac.*29. *Lam.* 458.

Forfeiture upon the statute, 1 *Jac.c.* 29. for eating of flesh, except such as be taken by the Justice of Peace, Majors, Bailiffs, head-officers, or Constables, are to be equally divided betwixt the King and the Informer. 1 *Jac.*29. expired.

Licence granted to sick persons to eat flesh on fish-days, shall be no warrant for them to eat beef, mutton, veal, pork, or bacon. 1 *Jac.c.*29. expired.

Butcher or other, though licensed, killing in Lent to sell any ox, beef, hog, calf, or mutton, except three days next before Easter, or oxen, or beef, for victualing of ship loseth the meat or value. 1 *Jac. c.*29. expired.

Justice of Peace, or head-officer of corporations, or Constables of Towns, may in Lent search Victuallers houses suspected of dressing flesh; and finding any flesh, beef, hog, calf, or mutton, may seise on it, and give it to the poor. 1 *Jac.c.*29. EXP.

"Bish. of the Dioceſs, Parſon, Vicar, or Curate of "the Pariſh where one is ſick, may grant licence "for eating of fleſh, which muſt be ſigned with the "hand of the Biſh. Parſon, &c. and endure no "longer then the ſickneſs. 5 *El. ca.* 5.

"Any perſon granting licence without need loſeth "five marks, and the licence is void. *ibid.*

Fleſh, *vide* Fiſh-day.

Flax.

Forfeiture due to the Informer upon the ſtatute of flax and hemp to be levied by what Proces the Juſtice will. 24 *H.*8. *c.*4. *Lam.* 584. but 24 *H.*1. *c.*4. is repealed by 35. *El. c.*7.

Fleſh, *vide* Fiſh-days.
Forain power, *vide* Treaſon.
Forain plea, *vide* Tryall.

Force.

Every treſpaſs in judgement of law is a force, and the action may be, *quare vi & armis. Dal.* 199. *Lam.* 141.

That which is properly force, is either { *Manu forti*, or *Multitudine.*

Manu forti, is violence offered to the perſon of another by deed or word *Dal.* 199.

By deed as actuall violence, or to be furniſhed with offenſive weapons not uſually born. *ibid.*

Any thing which a man taketh in his hand to throw it at another may be ſaid to be armour. *Cro.* 74. *b.*

Mlitudine, where there be two or three in a company, or more. *Dal.* 199.

Who

Who ſhall be ſaid to enter with force.

Forcible entry muſt be an an actuall entry. *Dal.* 199.

If one or more come weaponed, eſpecially with weapons unuſually worn, and violently enter into an houſe or land. *Lam.* 142. *Dal.* 199.

Much more being entred, if he or they offer violence, or fear of harm to any in poſſeſſion, or drive any out of poſſeſſion. *Dal. ibid. Lam.* 142.

Many come to do a force, and one onely uſeth force, all are guilty. *Dal.* 204. *Lam.* 145.

To enter peaceably, and forcibly to put out another. *Dal. ibid. Lam. ibid.*

To enter peaceably, and after to offer violence, threatnings, or fear of harm to one in poſſeſſion, with intent to get him out, though he get him not out. *Dal. ibid. Lam. ibid.*

Entring peaceably, and ſaying they will hold, although they dye for it. *Lam.* 146. *Dal.* 200.

To enter peaceably with weapons (not uſually born by them) to houſe open or grounds. *Dal. ibid.*

The Maſter entring with moe ſervants then uſuall. *ibid.*

A treſpaſs made *manu forti*, or *cum multitudine*, though it be to cut or take away another mans corn, graſs, or goods, or fell or crop wood, or to do any other treſpaſs, though the party be not put out of poſſeſſion, yet it ſeemeth forcible entry, puniſhable by the ſtatutes: but otherwiſe if the enty be peaceable, yet it is diſſeiſing with force. *Lam.* 143. *Dal.* 200.

To enter peaceably, and after entry, by force or violence to cut corn, graſs, wood, &c. or carry away anothers goods, is force. *Dalton* 200. *Cro.* 70. 2.

To diſtrain for rent due or not due with force, doth countervail a force. *Dal. ibid. Lam.* 144.

Divers enter where the entry is not lawfull, and all

all save one demean themselves peaceably, and one onely entreth with force, or after entry useth force it is forcible entry in all. *Cro.* 22. a. *nu.* 15. 24. b. *nu.* 34. b. *nu.* 15. *Lam.* 143. *Dal.* 217.

In all these cases of trespass, onely the Justice of Peace may, as it seemeth, remove the force, and upon view imprison and fine. Dal. 200. 202. *and upon view the Justice may instantly commit the offendor, and record the force.* Coke l. 8. f. 120.

Forcible entry by words.

To enter peaceably, and then to offer by threatning to kill the disseise if he re-enter. *Dal.* 200.

What is not force.

To enter by fair means, his entry being lawful, and perswade them within to come out, and the door being open, or shut by the latch, to enter without multitude, or offensive weapons, or other violence. *Dal.* 201.

To enter peaceably and quietly, getting other out and quietly to hold it. *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them. *Lam.* 145.

To take a man being out of his house, and imprison him, and in the mean time to send another peaceably to enter, is no force. *Lam.* 146. *Dal.* 201.

He that onely agreeth to a forcible entry made to his use, is onely a disseisor. *Dal.* 204.

What shall be said a forcible detainer.

Forcible detainer is of lands and tenements not of the person. *Lam.* 146. *Dal.* 211.

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had been by for three yeers. *Dal. ibid.*

To deny a Justice of Peace to enter (upon suppossall of a forcible detaine) is forcible detainer, though it be but by one person, and no weapons shewed. *Dal. ibid. P.R.41. Lam.145. Cro.70.b.nu.40.*

If the Justice enter, and findeth any armed, or any armour or unusuall weapons lying by them, or find more then the ordinary family. *Lam.145. Dal.202.*

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyned ready to assail the enterers. *Lam. 145. Dal 202.*

The disseiser forestalleth the way of the disseised with force, so that he dare not come neer. *Dal. 202 Lam.145. Cro.69.b.nu.26.*

To keep cattel by force where he hath no common, the Justice may imprison and fine, but not make restitution. *Dal.ibid. Cro.ibid. P.R.39.*

To detain a house morgaged by force from the morgager is forcible detainer. *Dal.203.*

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseised if he come again. *Dal.202. Lam.146.*

It seemeth to amount to a forcible detainer to threaten to maim, beat, or do bodily hurt to the disseised if he come again, *Dal. ibid.* for that death may ensue upon such beating or hurt.

What is not forcible detainer.

One entreth peaceably into a house, and finding armour or weapons, doth not remove them. *Lam. 145.*

What is not forcible detainer by word.

To threaten to burn his house or spoil his good
to deny to open the doors, to deny to go out Dal
203.

What is forcible detainer of rent.

The tenant resisteth so forcibly, that the own
cannot destrain for his rent, nor use his common o
pasture. *Dal.* 203. *Lam.* 146. *Cro.* 70. a. *nu.* 27 *P. R.* 39.

The tenant forestalleth the way by force an
arms, or threatneth him that hath the rent or common
that he dareth not distrain or use his common *ibid.*

The tenant maketh rescous of the distress wi
force and arms. *Dalt. ibid. Cro.* 69. a. *nu.* 26.

In these cases of rent or common, the Justice m
remove the force, record it upon view, imprison and fi
but can award no restitution. Dal. ibid.

What persons may make a force.

One alone, if it be with offensive weapons or tu
bulent behaviour, to the affray of others. *Dal.* 20
Lam. 143.

An infant of the age of 18. *Dal. ib. Cro.* 69. a. 2
so he may though he be under 18.

A feme covert may by her own act make a fo
cible entry or detainer, and she may be imprison
and fined, but the fine cannot be levied on the hu
band. *Dal.* 204.

Consent.

If one command or counsell others to a force, a
be present, though he do nothing, he is a principa
Dal. 204. but if absent, a disseiser.

Divers enter, one onely committeth force, all
guilty, *ibid. Cro.* 62. a. *nu.* 15. 24. b. *nu.* 43. 34. b. *nu.*
Lam. 143.

Who cannot be put out.

The King cannot be disseised, therefore an enditement upon the statute. 8 *H.* 6. for the King is not good, neither can the Kings Farmer prefer a Bill of Enditement upon the said statute, but must have an Information in the Exchequer. *Dal.* 205. *Cro.* 69. a. *nu.* 13.

where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3 yeers together. *Lam.* 159. *Dal.* 210, 211. and may hire strangers to maintain his possession, and have his company in armour, *Dal. ibid. Cro.* 71. a. b. but he may not resist the Justice of Peace that cometh to view.

Upon enditement of forcible holding the plea of three yeers lawfull possession next before, avoideth imprisonment, fine, and restitution. *Dal.* 211.

But it holdeth not.

1 If the entry were forcible, though the holding peaceable.

2 If the holding were forcible, though the entry peaceable.

3 If a disseiser have continued peaceably 3 yeers, *Quære* if he shall be helped by 1 *H.* 6. or 31. *Eliz. cap.* 11. If a disseiser have forcibly continued his possession twenty yeers, he may be endited upon 8 *Hen.* 6. and the Justice may make restitution. 14 *H.* 7. *f.* 28. *Lam.* 160. *Dal.* 211. *Cro.* 71. a. *nu.* 49.

4 If the possession of three yeers have been interrupted. *Cro.* 71. a. *Lam.* 161. *Dal.* 211.

A disseiser quietly holdeth three yeers, and after the diss. isee entreth or maketh claim, the disseiser re-entring cannot hold with force, for he is in upon a new disseising. *Dalton* 212.

A lawfull poſſeſſor, after twenty yeers poſſeſſion is outed, he can neither re-enter, nor hold with force. *ibid.*

What force is lawfull.

Force uſed by the Kings Officers for the due execution or advancement of juſtice, or of the judgment of the law: as,

1 To purſue, apprehend, and carry to priſon offenders in treaſon, felony, or other great crimes.

2 A Sheriff or his Officers to apprehend by vertue of the Kings Writ.

3 A Juſtice removing unlawfull entries, or holding of poſſeſſions, and repreſſing rioters. *Dal.* 208.

4 Juſtice, Sheriff, Conſtables, or Coroners, may uſe force in apprehending or impriſoning ſuch as in their preſence attempt to diſturb or break the Peace.

5 It is lawfull by force to break open door, to arreſt offenders within, if the Officer cannot otherwiſe enter.

Note, that the Officer is firſt to ſignifie the cauſe of his coming, before he attempt to break open the doors. Dal. 209. as.

Firſt, for treaſon, felony, or ſuſpicion of felony. *Cro.* 170.b.

2 Where one hath dangerouſly wounded another. *Cro.* 131.a.

3 An affray being in the houſe *Cro.* 146.b.

4 Upon a forcible entry or detainer found by inquiſition. *Dal.* 208.

5 Upon a *capias utlagatum* in perſonall action, or *capias pro fine* directed to the Sheriff. *Cro.* 1 . o.b.

9 Upon Warrant or Proces for attaching a Popiſh Recuſant excommunicate. 3 *Jac.* c. 4.

7 Upon a Warrant for the Peace or good behaviour. *Dal.* 209 333. but *Cro.* 176.b. maketh a Quære.

8 Upo

8 Upon recovery in a reall action, or *ejectione firmæ*, but not to execute the Kings Proces upon the body or goods of any person at the suit of any subject. *Dal.* 209.

9 In cases where the King is party. *ibid.*

Forcible defence is lawfull.

1 For every man to keep his house to himself, his family and goods, as his castle, as well for defence against injury, as for his repose. *Vide plus* Houses. *Dal.* 209.

2 In defence of husband, wife, father, mother, or master. *Dal.* 184.

3 Father or mother in defence of the child within age. *Dal. ibid.*

4 In defence of my goods or my land. *Dal. ibid.*

"5 An heir or feoffee may keep possession by "force, if they and their ancestors or feoffors, or "they whose estate they have, have been in peacea- "ble possession three yeers. *Dal.* 210.

In these cases he that attempteth may be disturbed; and if he attempt to assault or lame me, I may beat him again, as well in defence of my person as possessions, but not kill him. *Dal. ibid.*

"If one will take my goods, I must first lay my "hands on him, and disturb him; if he will not de- "fist, I may beat him. *Dal.* 185.

What Justices of Peace are to do in forcible entry or detainer.

Every Justice upon complaint or notice given, ought at the cost of the party grieved to do execution: *viz.*

1 He must go to the place. *Dal.* 57. *Lam.* 147.

2 Take sufficient power of the County, or of the

Town, and the Sheriff also (if need be) as well to arrest offenders, as also for removing of the force, and for conveying them to the Gaol. *Dal. ibid Lam. ibid.*

"Whosoever of that County shall refuse to give "his attendance, and assist the Just. shall be impri- "soned, and make fine. *Dal. 56. 15 R. 2. cap. 2.*

3 Arrest and remove all offenders, and take their weapons, and prize them for the King. *Dal. ibid.*

If the doors be shut, and entrance denied, he may break open the house. *Dal. 57.* Quære.

The Justice cannot arrest or remove them, if he finde no force, except by enquiry. *Dal. ibid.*

4 The Justice ought to make a record of the force, and either keep it by him or indent it, and certifie one part either into the Kings Bench, or to the Clerk of the Peace, and keep the other. *Dal. ibid.*

"One Justice of Peace upon his own view of "forcible detainer, may record the same by 15. R. 2, "c. 2. *Cro.* 61. b. *nu* 9.

"The Justice or Justices recording a force upon "his or their view, may not put the party put out in- "to possession, but must first enquire by a Jury, and "the force being found, put the party outed into "possession. *Dal.* 59.

The record of the Justice is a sufficient conviction of the offender, and is not traversable. *ibid.*

5 The Justice ought to commit immediately to the next Gaol, those which he findeth continuing the force, untill they pay their fine, *ibid.* & 115. or forfeiteth an 100 pounds. *ibid.*

But such force must be in the presence or view of the Justice.

6 The Justices, or some of them that see the force, are the proper Judges of that offence, and may assesse the fine; but it must be upon every one severally. *Dal.* 115. & is to be estreated into the Exchequer; upon which assessing and estreating the party is to be delivered. *Dalton* 58. *Lam.* 139.

And

And ſo upon payment of the fine to the Juſtice, or recogniſance for payment. *Dal.* 58. *vide Lam.* 159.

Quære, for the Sheriff is accountable for all fines: and *Lamb.* adviſeth to refer it over to the Kings Bench. *Lam.* 159.

Or the Juſtice may record the force, commit the offenders, and certifie the record to the Juſt. of Aſſize, or to the Seſſions, and there the offenders fined. *Dal.* 58.

But ought more properly to be aſſeſſed by them that record the force, *Dal.* 91. and to be of value.

Or the Juſtice may certifie the record into the Kings Bench, refer the fine thither, *Dalton* 58. which *Lambert* thinketh the beſt courſe. *Lam.* 159.

The fines muſt be reaſonable, *ſecundùm quantitatem & qualitatem delicti. Lam.* 577.

7 The force ought to be inquired of in ſome good place or town neer where the force was, *Dal.* 58. and that within a moneth, if it be a riot. *Dal.* 115. One Juſtice may enquire. *Dal.* 58.

Enquiry may be though the offenders be not preſent, or though the Juſtice go not to ſee the place where the force is. *Dal.* 58. *Lambert* 152.

Without enquiry there can be no reſtitution. *Dal.* 59. *Cro.* 161. b. 164. a.

Upon enquiry making, the Juſtice muſt direct his precept to the Sheriff to ſummon 24 of 40 ſhillings a yeer land *per annum. Dal.* 213. *vide* the form. *Cro.* 132. b. *Dal.* 400.

" If the Sheriff do not duely execute the Juſtices " precept for the returning of a Jury, he forfeiteth " x li. 8 *H.* 6. *ca.* 9. *Dal.* 58.

Upon default the Juſtice may award an *alias* and *pluries infinitè* till they come.

The Sheriff, at the day of the ſecond precept, muſt return 40 ſhillings in iſſues upon every one, at the third Writ five pound, and at every day after the double. 8 *H.* 6. *c.* 9.

If any Jurour have not 40 shillings land, yet the enditement is good for the King. Quære if there shall be restitution. *Lam.* 152. *Dalton* 213.

Returning of smaller issues then the statute, hindreth not the enquiry. *Dal. ibid. Lam. ibid.*

8 Upon enquiry the Justice may make restitution, wherein the Justice needeth not to examine the title. *Dal.* 214. *Lam.* 156.

No restitution before inquisition. *ibid. Crom.* 161. b. 164. a. *Dal.* 214.

In the enditement not onely the entry, but also the putting out must be, and *& adhuc extra tenent*, *Lam.* 153. for lack of these words no restitution can be made. *Dal.* 214. *Crom.* 163. b. *Lam.* 153.

The enditement must be good, both in matter and form. *Dal.* 215. the words *manu forti*, or *cum multitudine*, are necessary. *ibid.*

The enditement must expres the quality of the thing, whether messuage, cottage, &c. *tenementum* may extend to either, and so in certain. *Dal.* 214.

If restitution be made by a Justice upon an insufficient enditement, the Kings Bench will restore the other. *Dal.* 215. *Cro* 162. a.

If errour be in the enditement, any two of these Justices which were at the taking of the enditement, upon prayer of the party, may grant a *supersedeas* to stay restitution, if restitution be not made. *Dal.* 215. *Cro.* 165. a.

But no Justice not present can grant a *supersedeas*. *ibid.*

The Justice may make restitution, or give warrant to the Sheriff, or certifie into the Kings Bench, and leave the award of restitution to that Court. *Dal.* 216. *Lam* 156.

None can grant restitution, but they before whom the force was found, *Dal.* 216. except the Kings Bench.

None can personally restore the party, but he that took the enquiry, *Dal.* 216. And that by precept to the Sheriff. *Lam.* 158.

After

After enquiry the Justice of Peace may break into the house by force, and put the ejected into possession. *Dal.* 59.

If restitution be made without enquiry, it is punishable in the Starre-chamber. *Dal.* 45.

Restitution must onely be made to him that was put out. *Dal.* 159. 213. *Lam.* 153.

Restitution is to be made onely of house and land, *Dal.* 214. but not of rent, common, or advowson. *Dal.* 59.

Restitution may be made notwithstanding a traverse, *Dal.* 60. but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench. *ibid.*

If the Justice upon complaint or notice given of a force, do not remove the force, record it, and commit the offenders, it is punishable in the Star-chamber. *Dal.* 60.

The offenders being gone, the Justice may send his Warrant, and commit them till they finde surety of their good behaviour. *Dal.* 60.

If force be made by three, it is a riot. *Dal.* 61.

The proceedings upon a Writ upon the Statute of Northampton, 2 Ed. 3. 3.

1 The Justice of Peace to whom this Writ is delivered, is but a minister therein, and coming to the place where the force is supposed, by the Writ he may cause 3 *O-yes*, and then make proclamation for silence, *prout Dalton* 61. *Cro* 72. a. b. *Lam.* 168.

2 Then may he read, or cause the Writ to be read, or declare the effect thereof.

3 Then let three *O-yes* be made, and make proclamation again for silence, *prout Dalton* 61, *Cro.* 72. a. *Lam.* 169.

4 Either enter and search for armour, or enquire by Jury. *Dal.* 62 *Lam. ibid.*

All that remain after proclamation, are to be imprisoned, and the armour apprized. *ibid.*

If upon proclamation they depart, they are not to be imprisoned.

The execution of the Statute of Northampton without Writ.

Every Justice of Peace may execute it *ex officio* without Writ. *Dal.* 62. *Cro.* 72. a.

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Justice may enter, search, commit the offenders there found, apprize the armour, record all what he shall do, and thereout send an estreat into the Exchequer. *Dal.* 62. *Cro. ibid. Lam.* 171.

The Justice cannot make restitution to the party out, but onely remove the force. *ibid. Lam.* 172.

Of causes to stay granting of restitution, vide Dal. 218.

Forfeitures of a recognisance taken for the Peace.

Whatsoever is a breach of the Peace, the same is a forfeiture of the recognisance. *Dalton* 181. as,

1 To threaten a man to his face to beat or kill him, *Cro.* 136. b. *Lam.* 115. but not if he be absent. *Dal.* 152.

2 To strike at, or offer to strike at a man, though he hit him not.

3 All affraies, malicious and violent striking, or other mis-intreatings of the person of another. *Dal.* 181. *Lam.* 127.

4 To go with company or weapons unusual. *Dal. ibid. Cro.* 137. a. *Lam.* 126.

5 To

5 To command or procure another to break the peace, and if it be done indeed. *Lam.* 115. *Dal.* 182. *Cro.* 137. a.

6 Impriſoning or arreſting another without warrant. *Lam.* 127. *Dal.* 182.

To thruſt one into the water, whereby he is in danger of drowning. *ibid.*

To raviſh a woman againſt her will. *ibid.*

To commit burglary, robbery, murder, manſlaughter, or do any treaſon againſt the perſon of the King. *Lam.* 127. *Dal.* 182.

To be riotouſly aſſembled.

The act that breedeth the forfeiture of a recogniſance of the peace, muſt be done unto the perſon of another. *Dal.* 182.

Vide plus recogniſance, *vide plus* breach of the Peace, and Fines.

One committed for petty larceny, and convicted thereof, ſhall forfeit his goods. *Lam.* 273. *Dal.* 234. *Cro.* 36. b. *nu.* 20.

Forfeitures upon ſtatutes, *vide* Several ſtatutes.

Forgery.

Second forgery of deeds concerning anothers land after a former conviction is felony. 5 *Eliſ.* 14 but not enquirable by the Juſtices of Peace. *Dal.* 288 *Cro.* 56. b. *Lam.* 549.

Forrain plea.

One indicted of petty treaſon, murder, or other felony, pleadeth a forain Plea tryable by Jury, it ſhall be tried before the Juſtices before whom he was indicted, and by the Jurours of the ſame County. 22 *H.* 8. *c.* 14. 32 *H.* 8. *cap.* 3. *Lam* 552.

Forreſter

Forreſter.

Forreſter, Warrener, or Parker, after Huy and Cry to yeeld, killeth any man in his office making reſiſtance, it is juſtifiable. 2. 1 *E.* 1. *de malefactoribus in Parcis. Lam.* 235. *Dal.* 255.

Foreſtalling and Foreſtallers.

Foreſtaller is he that buyeth or contracteth for any victuals or wares before they come to the Marker, Faire, or Port, or moveth the party to enhaunce the price, or not to bring them to the Market, Fair, or Port. *Lam.* 450.

Foreſtaller convicted before the Juſtices of Peace at the Quarter Seſſions by examination of two witneſſes, or preſentment for foreſtalling, for the offence ſhall for the firſt time.

1 Loſe the goods, and be impriſoned two moneths without bail or mainpriſe.

2 For the ſecond loſe double the goods, and be impriſoned for ſix moneths.

3 For the third loſe all his goods, ſtand in the pillory and be impriſoned during the Kings pleaſure. 5 *Ed.* 6. *c.* 14. *Lam.* 570.

The moity of the forfeiture upon the ſtatute of foreſtallers due unto the party, is to be levied by *Fieri facias* or *Capias*, to be awarded by the Juſtices of Peace. *Lam.* 584.

Fowlers and Fowling.

Shooter, taker, or deſtroyer by guns, bows, ſetting dogs, nets, or other engines, of any Pheſant, Partridge, Pigeon, Heron, Mallard, Duck, Teal, Wigeon, Growſe Heathcock, Moregame, or ſuch fowls, upon conviction by confeſſion, or oath of two witneſſes

neſſes before two Juſtices of Peace, where the offence or apprehenſion is, to be impriſoned three moneths without bail, unleſs he pay to the Churchwardens of one of the places, to the uſe of the poor, 20 ſhillings for every Pheſant, and alſo for every egg of Pheſant, Partridg, or Swan taken or deſtroyed, or after one moneth of his commitment bound with two ſureties in recogniſance of twenty pound never to do the like, the ſame recogniſance to be returned to the Quarter Seſſions. 1 *Jac.* c. 27. *Lam.* 334. *Dal.* 89. 7 *Jac.* c. 11.

Vide Partridges and Pheſants.
Games, *vide* Unlawfull games.

Of free Quarter.

One or more of the Commiſſion Officers of each Troop, company, or party of Souldiers, having the Command thereof, by a Ticket under his hand, expreſſing the Souldiers names to whom it is given, appoint the houſe for his Quarter: without this no Souldier may enter any houſe without conſent. None may appoint Quarters for any but in common houſes. If he do, then upon complaint to two Juſtices of the Peace, or two of the Commiſſioners of the monthly aſſeſments, they ſhall be relieved by the Committee of the Army, and they may defalke 14 dayes of his pay for the firſt offence, and for the next he muſt be caſhiered: If any Souldier or Officer take free Quarter, or endeavour ſo to do, but common houſes, without the owners conſent upon ſuch courſe as aforeſaid, he ſhall forfeit as before. The Committee of the Army are to ſatisfie all ſuch perſons ſuch allowance not being above three days for unlawfull quartering as they think fit: If any party of Souldiers march without a commiſſion Officer, the Colonel loſeth 14 days pay, which

which the Committee must take to be born amongst the Officers of the Regiment, but if it appear to the Committee, or Councel of warr, the fault is in another, they may order a reimbursment upon the offenders: If it be a Troop, Company, or party out of a Regiment it shall be laid upon the Captain, and if he be guiltless, it shall be reimbursed him out of the offenders pay.

Any two Justices of Peace upon complaint to them of any such wrong done, may examine it upon oath, and send the same examinations under their hands and seals to the Committee of the Army: *Act* 19 *December* 1651.

Gaol Gaoler.

GAoler or Sheriff may make a Gaol of his own house; so cannot a Constable nor Justice of Peace. *Lam.* 133. *Dal.* 347, 348.

Gaoler suffers a felon to go at large, and he escapes; it is felony in the Gaoler, not in the prisoner. *Lamb.* 229. *Dalt.* 274 *P. R.* 147. 149 *Dal.* 278.

Gaoler by hard and cruell custody compels his prisoner to become an approver; it is felony. 14 *E.* 3. *cap.* 10. *Lam.* 231. 420. *Cram.* 49. a. *Dal.* 288. 25,

Gaoler killeth an unruly prisoner which doth assault him; it is no felony. *Lam.* 235.

Gaoler by hard usage killeth his prisoner; it is murder. *Lam.* 240.

Gaoler that taketh above 4 pence upon commitment of any prisoner arrested or attached, forfeiteth to the party grieved treble damages, and 40 pounds, the one moity to the King, the other to the party that will sue for it, 23 *H.* 6. *c.* 10. *Lam.* 431

Gaoler or Sheriff refusing to take a felon delivered by Constables or Township, or taking any thing so receiving, is to be fined. 4 *E.* 3. *c.* 10. *Lam.* 434.

Six

Six Justices may in sundry shires take order for the common Gaol, whereof the Sheriffs shall have the custody, and to which murderers and felons, &c. shall be sent, and may perform many incidents thereto by the statute. 23 *H.* 8. *c.* 2. 13 *El.* 25. *Lam.* 336. EXP.

Accountant for money levied for the Gaol to build it, goeth into another County; the Justices of Peace where the Gaol is, may send an attachment for him unto another shire. 23 *H.* 8. *c.* 2. 25 *Hen.* 8. *c.* 5. 5 *El. c.* 24. *Lam.* 525. EXP.

Gaoler suffereth a prisoner to go a broad out of his sight, and he returneth not again; it is an escape, *Cro.* 39. *b. nu.* 5.

Gaoler refuseth to receive one arrested for felony, the Town must keep him till the Gaol-delivery. *Dal.* 348. 349. *Cro.* 172. a. but the Gaoler denying to receive such, shall be punished by the Justicer of Gaol-delivery. ibid.

Gaoler shall take no fees of any servant, carpenter, mason, nor other labourer committed for refusing to serve, on pain of ten pound to the King, and 100 shillings to the party. 34 *El.* 3. *c.* 9. *Cro.* 185. a. b.

Glassmen.

Glassmen of honest life may travell without begging within the County, by licence of three Justices under their hands and seals, one being of the Quorum, 39 *E. c.* 4. but by 1 *Jac. c.* 7. they are made rogues, and so to be punished.

Goldsmith.

Goldsmith or worker of gold must work as fine silver or gold in allay as the sterling, and set his mark on it, or forfeit the double value. 2 *Hen.* 6. *c.* 14. *Lam.* 467.

None

None to gild any thing, or any metall but silver, except spurs of Knights, and apparel of Barons, or above, on pain of 10 times the value, and a yeers imprisonment. 8 *H.* 5. *c.* 3. *Lam.* 467.

Good abearing.

Good abearing may be granted upon discretion, and that by one Justice out of the Sessions; yet better not to command it but upon speciall cause seen to themselves, or upon suit of others, and those very honest, and seldom for one cause alone, and not by one Justice onely. *Lam.* 120. *Dal.* 191.

Good behaviour may be granted by speciall Writ out of the Chancery, *Custodibus pacis & vicecomiti & eorum cuilibet*, upon the statute of 34 *Ed.* 3. 1. *Lam.* 117. *Dal.* 192.

For what causes it is grantable
Dalt. 192.

One that doth cast down chamberpots upon men, or meats purposely to make spoil, or mischief: by *Baron Thorp* at *Gloceſter* Assises 1654.

1 Against common barrettours, quarrellers, and disturbers of the Peace.

2 Rioters.

3 Liers in wait to rob.

4 Generally feared or suspected to be robbers by the High-way.

5 Such as are likely to commit murder, homicide, or other grievances to the Kings subjects in their bodies.

6 Such as shall practise to poyson another.

7 Against all such as be of evill name or fame generally, but especially against such as are defamed in these particulars:

1 Those that haunt bawdy-houses.

2 Suspected to keep houses of common bawdery.

3 Com-

3 Common whoremongers, and common whores.

4 Night-walkers that be ſuſpected to be pilferers.

5 Eveſdroppers that caſt mens carts and gates into ponds, and ſuch like miſdemeaners in the night; ſuch as live idley, yea fare well, and go well clad, having little to live on, except upon examination they give good account of ſuch their living.

6 Common haunters of Alehouſes or Taverns, having ſmall means to live on.

7 Drunkards twice convicted.

8 Meſſengers of theeves.

9 Such as make falſe hue and crie.

10 Cheaters and couzeners.

11 Libellers

12 The putative father of a baſtard.

13 Unlawfull hunters in Parks, after examination taken.

14 Abuſing of officers in executing their office, as Juſtice of Peace, Conſtable, or other officer of the Peace; as a Juſtice ſeeth a man break the Peace, and doth charge him to keep the Peace; who anſwereth, he will not.

Words of contempt againſt a Juſtice of Peace, though he be not executing his office.

15 Abuſing a Juſtice of Peace his warrant.

16 He that complaineth of riot or force, and the Juſtices being aſſembled for inquiry will not proſecute.

17 He that chargeth one with felony before a Juſtice and will not proſecute.

18 Abuſing of a *Superſedeas* of the Peace to a wrong end.

By divers Statutes.

1 Diſturbers of Preachers. 1 *M.* c. 3.

2 Deſtroyers of fiſh ponds, or ſtealers of fiſh, after lawfull conviction. 5 *El.* c. 21.

3 Takers

3 Takers of hawks or hawks eggs out of other mens grounds after lawfull conviction. 5 *El.c.*21.

4 Stealers, hunters, or killers of Deer, or Cony in Park or warren after lawfull conviction. 3 *Jac. cap.*13.

All these must be bound at the Sessions.

5 Popish recusant must be bound in the Kings Bench. 23 *El.c.*1.

6 One pardoned for felony, is to be bound before the Sheriff and Coroners. 10 *Ed.*3.*c.*3.

7 Disturbers of the execution of the statute for rogues. 39 *El.c.*4.

8 Disturbers of the execution of the statute for the poor. 39 *El.c.*4.

9 She that hath had twice a bastard. 7 *Jac.c.*4.

10 Infected with the plague, or having their houses infected, and are unruly. 1 *Jac. cap* 31.

Grayhounds *Vide* Hunting.

Guns and Gunners.

Gunner that departed from his Captain without licence, or wandring with a forged licence, it is felony. *Lam.* 427.

Every person may attach an offender against the statute 33 *H.*8. *c.*6. and carry him to a Justice of Peace. *Dal.*65.

And the Justice upon examination may send him to the Gaol till the penalty be paid.

The particulars of the Statute 33 H.8.

None under 100 pound *per annum* may shoot in, or keep a gun, dag, pistoll, crosse-bow or stone-bow.

None may have or use any gun under three quarters of a yard in length.

One

One of a 100 pound *per annum* may take ſuch gun from the offender, or any croſſe-bow or ſtone-bow, and may keep the bow, but muſt break the gun.

None may travell with a gun charged, or bow bent, but in time of ſervice, and to the muſters, except he have a 100 pound *per annum*. Dal. 65.

None may ſhoot in a gun neer a Market Town, but in defence of his houſe or perſon, or at a Butt.

The maſter may not command his ſervant to ſhoot, except at a Butt, or in war.

1 Except Serving-men (whoſe maſters are enabled) at a Butt.

2 Inhabitant of Market Town.

3 Perſons dwelling alone, or neer the Sea; within five miles.

4 Gun-makers.

5 Thoſe that have Placards.

All perſons which ſhoot in guns (other then ſuch as have 100 pound *per annum*) ought to preſent their names to the next Juſtice of Peace, and the Clerk of the Peace ſhould record it *Dal.* 66. maketh *quære* if it be in uſe.

"The Sheriff, or any of his Officers may carry "guns, dags, or other weapons, offenſive or defen-"ſive, for the execution of their office, notwithſtand-"ing the Statute of 33 *Hen. Coke* 5.72. *Dal.* 66.

"Any two Juſtices may commit for three "moneths, ſuch as ſhoot with gun or bow at any "partridge, pheſant, houſe-dove, mallard, or any "fowle, or at any hare, unleſs he pay 20 ſhillings. 1 *Jac.* c.27. *Dal* 66.

Vide Hunting Partridges.

Hares.

"IF any have traced, killed, or deſtroyed any Hare "in the ſnow, he loſeth 6 ſhillings 8 pence for

"each

" each Hare, 14 *H.* 8. *c.* 10. *Lam.* 447.

Buying and ſelling of Hares, *vide* Partridges. See the Stat. 1 *Jac. c.* 27. in Fowlers.

Harneſs and Habiliments of war.

To imbezill habiliments of war, or victuals provided for ſouldiers, mariners, or gunners, is felony. 3 *El. c.* 4.

Hart proclaimed *vide* Deer.

Harveſt time.

Artificers and other perſons met to labour, are compellable by one Juſtice of Peace or Conſtable, and the refuſer to labour in hay time or Harveſt, is to be put in the Stocks two dayes and one night. *Lam.* 475. the Conſtable or other head office to do it upon pain of 40 ſhillings 5 *El. c.* 4.

Hawks and Hawking.

Unlawfull taker of Hawks eggs is to have three moneths impriſonment, there to remain till he finde ſureties for the good behaviour for ſeven yeers. 5 *El. c.* 21. *Lamb.* 446. *vide* 3 *Jac. cap.* 13.

Taking of Hawks eggs upon ones own grounds or anothers, or any Eirer, or driving them out of their covert, or bearing any Hawk of the breed of England, called a Nyeſſe, Goſhawk, Taſſel, Lanner, Lanneret, to be impriſoned a yeer and a day, and loſe 10 pounds and the Hawk. 11 *H.* 7. *c.* 17. *Lam.* 446.

Every Juſtice of Peace may examine the offences for hawking or hunting with Spaniels in eared or codded corn, and binde over the offender with ſureties to the next Seſſions. 23 *El. c.* 10. *Dal.* 66. *Lam.* 447.

Againſt

Againſt hawking at Pheaſant or Partridge, between the firſt of July and laſt of Auguſt, *vide* 7 *Jac. c.* 11. and Partridges.

Vide plus Larceny and Felony.

Hay and Oats.

Inholder taking any thing for litter, baking horſe-bread, except in Town or Village, being a thorough-fare, and being no City, Town corporate, or Market Town, the ſame to be of aſſize and weight, after the price of corn and grain in the Market, or ſell horſe-bread, hay, oats beans, peaſe, provender, and all kind of victuals, both for man and beaſt, for reaſonable gain; for the offence.

1 Fined.

2 Impriſoned for a moneth without bail.

3 Stand on the Pillory without redemption of money.

4 Fore-judged for keeping Inne again. 21. *Jac. cap.* 11.

Hedge-breakers.

Breakers and cutters of hedges, pales, railes, or fences, cutters and carriers away of corn growing, robbers of orchards or gardens, pullers up of fruit trees, with intent to carry away, cutters or ſpoilers of woods, poles, or ſtanding trees, convicted before a Juſtice of that County where the offence ſhall be done, by confeſſion, or one witneſs upon oath, are to render ſuch damage as the Juſtice ſhall limit; and if not able, to be whipped by the Conſtable, who for default in his office, is to be committed, without bail, till he cauſe it to be done. 43 *El. c.* 7. *Lam.* 301. *Dal.* 143.

No Juſtice to proceed againſt ſuch treſpaſſes for offences done to himſelf, without aſſiſtance of another Juſtice. *ibid.*

The

The second offence is whipping. 43 *Eliz. cap.* 7.

High-waies.

One Justice may cause high-waies to Markets to be enlarged, and cleansed of bushes and trees. 13 *El* 1. *c.* 5 *Dal.* 67.

Every Justice may present upon his own knowledge in open generall Sessions, any high-waies insufficiently repaired, or any default against the Statute, 2 & 3 *Ph. & Mar. c.* 8. & 5 *El. c.* 13. and such presentment is as good as the presentment of twelve men: and thereupon the Sessions may assesse the same, though the presented be absent, saving to the offender his traverse. *Dal.* 67. *Cro.* 125. b. 195. a. *pl.* 5.

The defaults contrary to these Statutes.

1 If the Constable and Church-wardens do not on Tuesday or Wednesday in Easter week call together a number of Parishioners, and chuse surveyours for high-waies.

2 If six daies be not by them then appointed for mending high-waies before Midsummer.

3 If notice be not given by them openly in the Church the Sunday after Easter of the said six days.

4 If he that hath a plow-land in tillage, or pasture, or draught, do not for every draught or plow-land send one cart with two able men to work eight hours of every of the said six dayes, 20 shillings,

And every other Parishioner having 5 li. in goods, 40 shillings in lands in the subsidy, must find every day two able men, or lose 10 shillings and every cottage one, or lose 12 pence a day.

But 18 *El.* 9. he that occupieth a plow-land in severall Parishes, onely where he dwelleth; and he which hath plow-land in severall Parishes, shall be charged in each Town. *Dal.* 68. *Cro.* 82. b.

5 If

5 If the carriages be not thought needfull by the ſurveyours, then two able men for every cart ſpared, upon pain to forfeit for every one not ſent, 12 pence 2 & 3 *Phil & Mar cap.* 8. *Cro.* 82. b.

6 If fences, hedges, and ditches next adjoyning to the higt-waies be not kept low, ſcoured, and repaired.

7 If all trees and buſhes growing in the high-ways be not cut down by the owner of the land, upon pain of 10 ſhillings for every default. 5 *El. c.* 13. 18. *El. c.* 9.

8 If any choſen to be ſurveyours refuſe the office, or do not execute it, Penalty 20 ſhillings 2 & 3 *P. & M. c.* 8.

9 If the ſurveyour do not within one moneth next after the offence committed, preſent it to the next Juſtice, he forfeiteth 40 ſhillings 5 *El. c.* 13. 29. *El. c.* 5.

10 If the Bailiff or Conſtable who receiveth the eſtreats, do not levie the ſame, or make not a true account and payment of all ſumms levied to the Conſtable and Churchwardens, or the Conſtables and Churchwardens have not imployed them upon the high-waies.

If the ſurveyours do certifie the next Juſtice within a moneth, the Juſtice ought to certifie the preſentment at the next Seſſions, penalty five pounds.

If the ſurveyours preſent not till after the moneth, and the Juſtices do certifie it at the next Seſſions, it is not good againſt the offenders. *Dal.* 70.

Two Juſtices, one being of the Quorum, may call thoſe to whom the eſtreats are delivered, to their account, betwixt the firſt of March and laſt of April, and compell them to pay all ſuch arrerages as they ſhall adjudge to the Conſtables and Churchwardens, or impriſon them till payment of ſuch arrerages be made, and call the Surveyours, and Conſtables, and Churchwardens to an account.

All fines at the Seſſions for high-ways, ſhall be levied

levied by estreats indented, sealed, and signed by the Clerk of the Peace, and delivered by him, within six weeks after Michaelmas. *Dal.* 71. as by Statute is appointed, *vide* Statute.

The Bishop, Chancellor and three Justices of Peace, may examine the bestowing of any money appointed by any statute for the amending high-waies or bridges, and call to account the detainer thereof. 14 *Eliz.* 5. 39 *Eliz.* c. 18. *Lam* 366.

Upon enditement for repair of bridges in high-waies there shall be like process as the Kings Bench useth, or such as the Iustices of Peace think meet. 22 *H.* 8. c. 5. *Lam.* 523.

High-waies leading from one Market Town to another, shall neither have dike, underwood, or bush, whereby a man may lurk to do hurt, within two hundred foot of one side or other: if default be in the Lord, and any robbery be done therein, he must be answerable for it; and the Lord of a Park must set it two hundred foot from each side from the way, or a sufficient wall, dike, hedge, or pale, that the offenders cannot pass. *Dal.* 133.

Upon the new ordinance touching highwayes observe these insuing particulars as well concerning Iustices of Peace, as surveyours, and others.

1 That two persons having 20 li. by the year in lands, or each worth 100 li. in goods shall be yearly elected upon every first Tuesday next after the 25 of March surveyours of highways.

2 In default of such election the Parish to forfeit 20 li. and the Overseers of the poor to supply the place.

3 The persons chosen to accept the office, and to be sworn within ten days under pain of 10 li.

4 That after swearing to view the defects, and make such reparacions as are necessary, &c.

5 The Parishioners rate not to exceed 12 pence in the pound yearly value of lands, and 12 pence for every 20 li. in goods

6 In

6 In defect of the Parishioners so doing, the surveyours to make it, and any one Iustice to confirm it, and all differences about inequality to be decided at the Sessions.

7 The surveyours to cause nusances to be amended, and the parties offending to be punished by indictments, and charges for persecution to be allowed them, and the same to be ended by the Justices.

8 Any refusing payment of his rate within 7 days, to pay double.

9 The surveyours to imploy yearly persons, carts &c. at such wages, and upon such penalty as two Justices shall set down.

10 The surveyours may cleanse ditches, divert any water course, plash hedges, &c. as cause shall require.

11 They may digg for stones, gravell, sand, &c. at times convenient, and upon such rates as one Justice shall determine.

12 If 12 pence in the pound suffice not, another Parish lower rated must contribute.

13 No carriage, nor cart to have above six horses, or six oxen and one horse upon pain of 20 shillings for all above.

14 The Justices may determine all charitable gifts for high ways.

15 The inhabitants of any Parish to make by laws to be allowed by the Justices for amending streets, and to impose penalties.

16 Which penalties to be levied by warrant of any Justice, and to be disposed for amendment of the wayes.

17 Upon any suit brought the ordinance to be given in evidence, and the party vexed to have his full costs upon his oath, and 10 li. Addition.

18 Every surveyour within a moneth after this year to accompt in writing to his successors, and upon refusal any Justice may commit him without bail

untill satisfaction: *Ord.* 31. *Mar.* 1655.

Homicide.

Homicide is the killing of a man by a man. *Dal.* 2, 4.

It is no difference whether the slain be alien, denison or English man, if he lives under the Kings protection, *Lam.* 237. *Crom.* 21. 2. *nu.* 1. *Dal.* 239.

To kill one attainted of treason, or of felony, or outlawed for felony, or attainted in Premunire, is felony *Dal.* 239. *Cro.* 24. a. *nu.* 39. *Stamford* 13 *quære.*

Homicide is either killing himself, *felo de se*, or another.

Felo de se forfeiteth to the King his goods and chattels reall and personall, and his debts due by specialty. *Dalt.* 240. but no lands, nor bloud corrupted. *ibid.*

His goods are not forfeited till his death. *ibid.*

Infant, or *non compos mentis* do not forfeit; but a lunatick killing himself out of his lunacy, doth forfeit his goods. *Dal.* 240.

Homicide of another is { Voluntary, Involuntary.

Voluntary is { Murder. *vide* Murder. Manslaughter.

Manslaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other *Cro.* 26. a *Lam.* 248. *Dal.* 247.

Manslaughter is { By chancemedley. *Se defendendo* { person. house and goods.

Manslaughter by chancemedley is felony, but may have his clergy. *Dal.* 247.

One fighting breaks his weapon, a stander by lends him another, whereby the other is killed, it is manslaughter in the lender. *Dalt. ibid. Cro.* 26. b. *nu.* 12. *Lam.* 252.

Two

Two fighting on the ſudden, part, and meet again, one killeth the other; it is a continued fray. *Dal. ibid. Lam.* 250. *Crom.* 23. *b. nu.* 31. & 24. *a. nu.* 36. & 26. *a. nu.* 9.

The ſervant fighting in his maſters defence, though there were malice in the maſter not told to the ſervant, *Lam.* 248. ſo a ſtranger ſuddenly taking part *Lam.* 248. it is chancemedley.

Two that were in malice are reconciled, fall out upon new occaſion, and one is killed, it is manſlaughter only. *Lam.* 250. *Dal.* 248.

Se defendendo, when one killeth another in the neceſſary defence of himſelf or his, thereby to ſave himſelf or his poſſeſſions or goods, or ſome other perſons which he is bound to defend from perill, and it is either againſt a felon, as murderer or theef, or a loyall ſubject. *Lam.* 252. *Dal.* 253.

Againſt a loyall ſubject, if he be aſſayled by another man, he muſt flie ſo much as he may till he be letted by ſome wall, ditch, hedge, preaſe of people, or other impediment, that his neceſſity of defence may ſeem inevitable, & he ſhal be committed till the time of his triall, loſe his goods, and ſeek his pardon. *Lam.* 253. *Dal.* 254. It is not materiall though he ſtrike again, if before he give any deadly wound he flie to the ſtrait.

"A man flyeth to a wall, and holding out his "weapon, the other runneth upon it and is ſlain, it "is *ſe defendendo* and forfeiteth his goods. *Dal.* 274. "*Cro.* 28. *a. nu.* 7. But if he had fallen one the ground "and drawn his knife, and the other fall on it, and "killeth himſelf, he forfeiteth no goods, for he could "not fly, and the ſlain is in a ſort *felo de ſe. ibid.* "*P. R.* 122. *b. Stam.* 16. *a.*

Neither is it materiall though there were former malice unleſs he lie in wait for the other, or agree for the place of fight, or ſtrike the firſt ſtroke. *Lam.* 253. *Dal.* 254.

Or aſſaulted in his own houſe upon a ſudden quar-

rel, and thereby killeth him. *Lam.* 254. but he forfeiteth his goods and muſt have his pardon of courſe except the aſſaylant came with a felonious intent to kill or rob him. *Dal.* 254. *Cro.* 28. 2. *nu.* 6 *Lam.* 254.

A man falleth to the ground, there his flying to a ſtrait is not neceſſary. *Dal.* 255.

An officer or miniſter of Juſtice, in executing his office being aſſaulted, is not bound to fly, *Dal.* 255. *Coke.* 9. 98.

A ſervant killing him who robbed or killed his maſter, ſo it be done preſently or in defence of his maſters perſons or goods, if it cannot otherwiſe be avoided. *Dal. ibid. Cro.* 28. *nu.* 4.

Forreſter, Parker, or Warrener, or any in their company, killing an offender in a Forreſt, Park, or Warren, after hue and cry to keep the Peace, if they yeeld not themſelves but fly, or defend themſelves by violence, is no felony. *Dal.* 255. *Quære* if there be no malice in the keeper. *Cro.* 30. b.

In defence of my houſe or goods, it is juſtifiable by me, my ſervants or company, to kill one who attempteth felonioufly to murder or rob me in my dwelling houſe, or in or near a high-way, horſe-way, or foot-way, or burglarily to break my houſe in the night. *Dalt.* 254. *Crom.* 27. b. *nu.* 1. *Vide. Lam.* 240. of one entring by force in the day, and killing in the dark.

To ſhoot at him that cometh to burn my houſe, is juſtifiable in me or my ſervants. *Dal. ibid. Cro. ibid.*

In defence of the poſſeſſion of my goods, I may juſtifie to beat him that wrongfully taketh them, but not kill him, except he be a thief. *Dal.* 255. *Vide* Aſſault.

To kill a true man, in defence of houſe, land, or goods, is manſlaughter. *Dal. ibid. Cro.* 27. b. *nu.* 4.

Involuntary homicide is by { Miſadventure, Neceſſity.

By miſadventure is, when a man doing a lawfull act

act, without any evill intent, killeth a man: this is not felony of death, but he shall have his pardon of course for life and lands, but forfeiteth his goods. *Dalt.* 249. *Lam.* 254.

A schoolmaster, father, mother, or master, correcting moderately his scholar, child, or servant; Shooting at pricks, buts, or lawfull mark; A workman casting tyle, timber, or stone from a house, or any thing from a cart and giving warning, or doing other lawfull thing, and giving warning.

Running at Tilt, or fighting at Barriers by the Kings command.

The killing of a man in doing of an unlawfull act, without evill intent, is felony, as shooting arrows casting stones into highwaies or other place whither men usually resort. *Dal.* 250.

Fighting at Barriers, or running at Tilt without the Kings command.

Quære if playing at hand-sword, buckler, foot-ball, wrestling, and such like, whereby a man is slain or receiveth hurt, and dieth within the year and day, be felony of death, or may have their pardon of course. *Quære similiter* of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dogge, &c. or by some fall which he taketh. *Dal.* 251. if it be through the wilfull default of another, it is felony.

The thing which causeth the death is a *Deodand*, and so forfeited to the King. *Crom.* 31. a. *Dal.* 251.

The forfeiture hath relation from the stroke given.

Deodands are not forfeited till the matter is found on record. *Dal.* 251.

The Jury which findeth the death of a man, must find and apprize the *Deodand*. It behoveth the town to see it forth-coming; for the Sheriff shall be charged with the price, and shall levie the same on the town. *Dal. ibid. Stam.* 21.

If the slain be under 14 years of age, nothing is forfeited as a *Deodand. Dal. ibid. Stam.* 21. &c.

Homicide by necessity is { Commanded, Tolerated.

Commanded.

An officer doth execution after judgement, according to his warrant; it is not properly homicide, but Justice. *Lam.* 234. *Dal* 252.

If the officer doth not observe order of law, it is felony in the officer. *Dal. ibid. Lam.* 240. *Stam.* 13.

"If a stranger, not lawfully deputed, put to death "one condemned to die, it is felony. *Dal. ibid. Lam. ibid.*

"It is not lawfull for the judge, who condemned "him to be put to death. *ibid.*

Tolerated.

One warranted to arrest one endited of felony, upon resistance killeth him. *Dal. ibid. Lam.* 234.

Every private person upon hue and cry to take a felon, if he resist and will not yeeld, may kill him *ibid.*

Conducters of a felon to the Gaol, upon resistance or flight may kill him. *Dalt.* 253. *Lam.* 234.

A prisoner in the Gaol attempteth to escape, and striketh the Gaoler, he killeth the prisoner; it is not felony. *ibid.*

Rioters, forcible enterers or detainers, that shall resist the Justice of Peace, or other the Kings officers and will not yeeld themselves, being slain, it is no felony. *Cro.* 23. b. *nu.* 28. 30. b. 158. b *Lamb.* 235. *Dalt.* 253.

If an officer, by vertue of the Kings process, arresting one for debt or trespass, is resisted, and killeth the resister, it hath been taken to be no felony. *Dal.* 253. *Cro.* 24. a. 30. b. *Quære Coke lib.* 4. *fol.* 40, 41.

To

To kill a true man in defence of house, lands or goods, is homicide by necessity. *Dal.* 254.

In all these former cases there must be inevitable necessity that the offender could not be taken without killing. Dal. 253.

Horses and Mares,

Any Justice may hear and take the claim of the owner of any horse, &c. which was stollen within six moneths after the sale thereof, the proof to be made by two witnesses upon oath within forty days next ensuing the said claim. *Dal.* 73. *Lam.* 203. 31. *Eliz. c.* 12.

The Justice of Peace may minister an oath to the buyer what money he paid, *bona fide.* so as the right owner repaying his money may have his horse again. *Dal. ibid.*

Owner, officer, or ruler of any fair, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose forty shillings for every fault and answer the party greived. 2. 3 *P. & M. c.* 4. *Lam.* 471.

The sale of every horse not being according to the stat. in every point, is void. *Dal.* 73 *Lam.* 472.

1 The horse must be one hour at the least in the place of the open fair.

2 All the parties to the bargain being in the fair, must come with the horse to the book-keeper.

3 The book-keeper must take perfect knowledge of the seller and of the voucher, of the Christian name, sirname, mystery and place of dwelling.

4 The voucher must know the seller indeed, and declare to the book-keeper the Christian name, sirname, mystery and dwelling, as well of himself, as of the seller.

5 The book-keeper must make a true and perfect entry of the sellers name and place of dwelling, &c.

and of the true price, forfeiture, 31 *El.cap* 12.

Every contract for a ſtollen horſe out of the fair is void, though it be after booked. *Dal* 74.

A ſale in open market ſhall not take away the owners property, the buyer knowing that it was anothers. *Dal.ibid.*

All horſes, and all other goods, are to be ſold in ſuch a place or ſhop as is commonly uſed for the ſelling of goods of the ſame kind, to alter the property. *Dal. ibid.*

A theef ſelleth a ſtollen horſe by a falſe name, and is ſo entred in the toll book; ſuch miſ-naming maketh the ſale void againſt the owner. *Dal.* 74.

Horſe-bread.

Inholder in a corporate or market Town, where there is a common baker that hath been a apprentice therein ſeven yeers, may not make horſe-bread within his houſe. 32 *H.*8.41.21 *Jac.c.*21.

Inholder or oſtler in a thorow fare town, being no city, town corporate, or market town, being a baker, and one that hath been an apprentice therein ſeven yeers, may make horſe-bread within his houſe. 21 *Jac.cap.*21.

The horſe-bread muſt be ſufficient, lawfull and of due aſſize according to the price of corn, 21 *Jac.* 21.

Penalty
1. Fine.
2. Impriſonment for a moneth without bail.
3. Stand in the pillory without redemption of money.
4. Forejudged for keeping Inne again. 21 *Jac.c.*21.

Vide Inne-holder.

The

The Biſhop and his Chancellour, with two Juſtices of Peace next inhabiting, may charge the collectors of a revenue of an Hoſpital, upou a pain, preſently to account and to imploy the ſurpluſage to the uſe of the Hoſpitall. *Lam.* 356. 14 *Eliz* c. 5. 29 *El.* c. 18.

Hoſpitality *vide* Religious houſe.

Houſe.

1 A mans houſe is his caſtle for defence. *Dal.* 209.

2 It protecteth againſt any arreſt at the ſuit of any ſubject. *ibid.*

3 In ſome caſes it is a priviledge againſt the Kings Prerogative; for it hath been adjudged, that Saltpeter men may not digge in a Manſion-houſe without the owners conſent. *ibid. Coke* li. 11. fol. 82.

Theeves or murderers attempting to rob or murder a man in his houſe, he may aſſemble company and kill auy of them, and forfeiteth nothing. *ibid.*

He may beat him that will enter upon his poſſeſſion, but may not kill him. *Quære* if he may hire ſtrangers to aid him, or put his ordinary company in armour. *Dal.* 209.

Vide plus Homicide.

Houſe of Correction.

Houſe of Correction with implements and backſides fitting for ſetting on work idle perſons, to be erected and provided in a covenient place in every County before Michael. 1611. the ſame to be conveyed over to ſuch as by the greateſt part of the Juſtices at the quarter Seſſions ſhall be choſen to be imployed for ſetting on work idle and diſorderly perſons, on pain of five pound for every Juſtice of

Peace, the one moity to the informer, the other toward the erecting of the house. 7 *Jac. cap.* 4.

Master of the said house to be appointed by most of the Justices at Quarter Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering such persons as shall be sent to him 7 *Jac. c.* 4.

Master of the house of correction giving sufficient security for performance and continuance of the service, Is to have yearly such money as by most of the Justices at Q. Sessions shall be thought meet, to be paid quarterly by the Treasurer, or else the master to levy it in such sort as the Treasurer may. 7 *Jac. c.* 4.

Constables shall appear before the Justices of Peace twice in the year, and give account upon oath in writing, under the hand of the minister, what rogues have been apprehended, and how many punished. 7 *Jac. c.* 4.

Constables not safely conveying to the house of Correction such as by the Justices of Peace at their meeting for the execution of the statute. 7 *Jac. c.* 4. shall be sent thither, to pay such fine under 40 shill. as by most of the Justices shall be assessed. 7 *Jac. c.* 4.

A woman, having a bastard which may be chargeable to the Parish, for the first offence to be sent to the house of Correction one year, for the second offence to be sent to the house of Correction, and to remain there (as aforesaid) till she find sureties for the good behaviour, and not to offend so again. 7 *Jac. c.* 4.

Any able to work, and threatning to run away, and leave their families upon the Parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the Parish, or to be sent to the house of Correction. 7 *Jac. c.* 4.

Master of the house of Correction quarterly at the Sessions must yeeld account of such as have been com-

committed, or is to be fined by most of the Justices. 7 *Jac.c.*4.

If any committed become troublesome to the countrey by going abroad, or escape without lawfull delivery, the matter is to be fined by most of the Justices at the Q. Sessions. 7 *Jac.c.*4.

All penalties not limited by the statute. 4 *Jac.*4. shall be paid to the Treasurer, and accounted by him 7 *Jac.c.*4.

Vide plus Poor people.

Hunting.

One Justice of Peace, upon information of any unlawfull hunting of Deer or Conies by night, or with painted faces, or other disguising in forrest, park, or warren, may make warrant to the Sheriff, Constable, Bailiff, or other officer, to take the party suspected, & to bring him before him, or some other Justice, to examine him thereof; and if he conceal the hunting, or any offender with him therein, the concealment is felony in the concealer, but the truth confessed is but fineable at the next Q. Sessions. 1 *H.*7. *c.*7. *Lam.* 191. *Dal.*180.

To disobey such a warrant, or make rescous thereupon, so that execution of that warrant be not had, is felony. 1 *H*7.*c.*7. *Dal.*75.

The Justice of Peace that taketh examination of the offender for unlawfull hunting in parks, &c. may after the examination binde the offender to his good behaviour, to the end he be forth-coming till the offence and the offender, be lawfully examined. *Dal.* 75, 76.

Unlawfull hunting by three or more will prove a riot. *Dal.*76.

Any by night or day wrongfully entring into any inclosed ground, kept for keeping of Deer or Conies, & there chasing or killing of them, upon conviction to

be imprisoned three moneths without bail, and there to continue till he pay treble damages and costs to be assessed by the Justices before whom he is convicted, or pay to the party grieved ten pound for Deer at the election of the party grieved, 7 *Jac. c.* 13. and find sureties for his good behaviour for seven yeers. 3 *Jac. ca.* 13. 7 *Jac. c.* 13. *Lam.* 449.

The party grieved or the Justices of Peace, upon satisfaction of the party grieved, and confession of his offence, and that he is sorry for the same, in open Sessions may release the offender of his bond, for the good behaviour. 3 *Jac. c.* 13.

The statute. 3 *Jac. c.* 13. doth not punish offenders in parks or inclosed grounds made after the statute, without the Kings license. 3 *Jac. c.* 13.

Enquiring, hearing, and determining of offences against the statute. 3 *Jac. cap.* 13. may be made by the Justices of Peace and Gaol-delivery at the Sessions, and they may award process upon enditements, informations, bills of complaint, or other actions wherein no essoin, &c. 3 *Jac c.* 13.

Any not having lands of inheritance in his own or wives right, of the clear yearly value of 10 li. or for term of life of 30 li. *per annum*, or goods to his own use worth 200 li. keeping Greyhound to course Deer or Hare, except the son of a Knight or Baron of Parliament, or son and heir of an Esquire, upon conviction by confession or oath of two witnesses before two Justices of Peace, where the offence is committed, the party apprehended to be imprisoned three moneths without bail, except he presently pay to the Churchwardens where the offence was committed, or party apprehended, 40 shillings to the use of the poor of the said Parish. 1 *Jac. c.* 27.

Any having lands in fee simple or fee tail of 100 li. *per annũ*, finding any not having lands 240 li. *per annũ*, nor worth 200 li. in goods, to use any gun, bow, dog, or engines for killing of deer or hare, except parker or

war-

warrener, or owner of either of them, or other grounds incloſed for deer or conies, that ſhall be yearly worth 0 ſhillings may take any their guns, bows, engines and dogs, and keep them to his own uſe. 3 *Jac.* c. 13.

Lay perſon not having in lands 40 ſhillings *per annum*, ſpirituall perſon a benefice not 10 li. *per annum*, keeping dogs to hunt, or uſing ferrets, &c. ſhall be imp iſoned for a yeer. 13 *R.* 2. *c.* 13. *Vide plus* Parks.

Hunting of Deer.

If any perſon ſhall hurt, kill, or take away any red or fallow deer in any foreſt place, or park or other ground incloſed without the owners conſent, or perſon truſted with the keeping thereof, or ſhall be aſſiſting therein, and ſhall be thereof convicted by confeſſion, or by oath of one or more witneſſes (before one or more Juſtices of the Peace who are impowred to that purpoſe) ſuch perſon being proſecuted therefore within three moneths after, then every ſuch perſon ſhall forfeit the ſumm of 15 li. to be levied by diſtreſs upon the goods of every ſuch offender by warrant under the hand of ſuch Juſtice before whom ſuch conviction ſhall be, the one moity thereof to the informer, the other to the poor of the Pariſh where, &c. and for want of diſtreſs the offender to be impriſoned for a yeer without bail, or mainprize.

Provided, that whoſoever ſhall be puniſhed by vertue of this act, ſhall not be proſecuted upon any other Law for the ſame offence. *Act* 24. *July* 1651.

Hundred.

Hundred with the liberties therein to be equally taxed by two Juſtices of Peace, one to be of the *Quorum*, in or neer the hundred, for relief of thoſe that are robbed. 27 *Eliſ. cap.* 13, *Dal.* 132. 299.

The robbed ſhall not have his action upon the ſtatute of 27 *Eliſ. c.* 13. except he firſt with all ſpeed convenient give notice of the robbery to ſome inhabitant

bitant near the place where he was robbed.

2 Commence his suit within a yeer next after such robbery committed.

3 He being examined upon his oath within 20 days next before such actions brought by one Justice where the robbery was committed dwelling neer to the hundred if he knew the robbers, or any of them.

If he knew any of the robbers before such action, he shall be bound before the said Justice to prosecute the offenders effectually by enditement, or otherwise by course of law. *Dal.* 131.

The hundred must answer the loss, if the robbers be not taken within 40 days. *Dal.* 131. 299. *Cro.* 179. a. *Vide* Robbery.

A man is slain in the day time out of a town, and the murderer doth escape, the hundred shall be charged therewith. 299.

Jury of one hundred may present an offence done in another hundred. *Lam.* 399.

"Robbery in a house doth not charge the hundred, "though it be in the day time. *Dalton* 133.

"Robbery in the night doth not charge the hun-"dred, yet if it be by day-light, though before sun-ri-"sing or after sun-setting, the hundred shall answer "it. *Dal.* 133. *Coke l.* 7. *fol.* 6.

"If upon pursuit, the offenders or any of them "be taken, the hundred shall not be charged. *Dal.* "133.

"If the party robbed take any of the theeves after "Hue and Cry made, it excuseth the hundred. *Dal. ibid. Cro.* 179 b.

"He which is robbed shall not have his action "where one of the felons is taken, but if there be no "Hue and Cry the village shall be amerced, though "one of the felons be taken. *Cro.* 179. b.

Vide plus Hue and Cry.

Hue and Cry.

For the apprehending of homicides, burglars, robbers, and other felons, hue and cry shall be made, and every man shall follow the hue and cry; and he that doth not, shall be attached to appear before the Justices of Gaol-delivery. It seemeth any Justice of Peace may bind him over by the commission. *Dalton* 299. *Cro.* 179. b.

Hue and Cry ought to be made from town to town, from countrey to countrey, by horsemen and foot-men. 13 *Ed.* 1 *c* 12. 27 *El. c.* 13. *Dal.* 75. *Cro.* 178. b. 179 a. b. otherwise it is no unlawfull pursuit to arraign a felon.

Upon committing of any robbery or felony, the Officer of the town where it was done, ought to send hue and cry to every town round about him. *Dal.* 75. *Cro.* 178. b. *nu.* 2.

Every Justice of Peace may cause hue and cry, fresh suit and search to be made upon any murder, robbery, theft, or other felony committed, by force of the first *assignavimus*. *Dal.* 49. 75. *Lam.* 185.

By a false hue and cry to enter into any house with the Constable, to bind and rob the Constable and master of the house in the night, is burglary. *Dal.* 257. *Cro.* 32. b. *nu.* 24. *Lam.* 263.

Vide plus Robbery.

"The inhabitants of any hundred (either within "the county wherein the robbery was *done*, or in "any other county wherein default shall be of fresh "suit after hue and cry made) shall satisfie the "moity of such money as shall be recovered against "the hundred where the robbery was done. *Dal.* "132.

"In levying hue and cry it is necessary to give no-"tice of the thing stolen, as horse, &c. of the colour "and speciall marks: so of the theeves person, ap-

parel,

" parell, &c. to ſearch ſuſpected places, and to take " ſuſpitious perſons, and bring them before a Ju- " ſtice of Peace to be examined. *Cro.* 178. b.

" If any raiſe hue and cry without cauſe, he ſhall " be attached for diſturbing the Peace. *Cro.* 179. a.

Jeſuites and Seminary Prieſts.

ANy Juſtice of Peace within the county in which any Jeſuite, Seminary Prieſts, or other Prieſts, Deacons, religious or Eccleſiaſticall perſon ſhall arrive or land, may within three days after take the ſubmiſſion oath, and acknowledgment of him touching his obedience to the King and laws provided in caſes of religion. 27 *El. c.* 2. *Lam.* 198. *Dal.* 104.

Every one underſtanding that any ſuch Prieſt, &c. ſhall be within any of the Kings dominions, ought to diſcover the ſame to ſome Juſtice or other ſuperiour officer, within ten days after ſuch knowledge, under the pain of fine and impriſonment; and the Juſtice within 28 days muſt give information thereof to one of the privy Councell, on pain of 200 marks. 27 *El. c.* 2. *Lam.* 198. *Dal.* 104.

Two Juſtices of Peace of the County where any of the Kings Subjects that are no Jeſuites, &c. brought up in any Colledge of Jeſuites, or in Seminaries, ſhall arrive within ſix moneths after proclamation made to that end, may within two days after their return take their ſubmiſſion under the oath of ſupremacy. 1 *El. c.* 2. 27 *El.* 2.

To receive Jeſuites or Seminary Prieſts, contrary to the ſtatute, is felony. *Lam.* 414. 27 *El. c.* 2.

Any within three days after the offence committed, diſcovering to any Juſtice of Peace any recuſant, Seminary, or Popiſh Prieſt, or any Maſs to have been ſaid (any of them then preſent there) and by reaſon

reason of his discovery, any offender be taken and convicted, he shall be freed from the danger of the offence, and have the third part of the forfeiture by such offence. 3 *Jac. c.* 5. *Lam.* 199. *Dal.* 106.

Imprisonments, *vide* Prison.
Indictments, *vide* Enditements.

Information.

Information against a felon; whether it shall be taken by oath or no is uncertain: but *Lam.* 213, 214, 215 & *Dal.* 307. & *Cro.* 194. a. *nu.* 5. do best allow it by oath, and so do divers Judges in their circuits.

No proces can be awarded upon information of a private person, unless where the statute particularly warranteth inquiry by information, as the statute of 5 *Eliz. c.* 4. of labourers, 5 *Eliz. c.* 21. of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Justice of Peace: so much thereof as is materiall he must put in writing within two days after the examination. *Lam.* 212. 2 & 3 *Ph. & Ma. c.* 10. *Dal.* 303.

Two inform against another in matter of felony, and do vary in their tales, *viz.* in the day and place when and where it was committed; such information is not to be credited. *Dal.* 303. *Cro.* 100. a.

The bringer of the suspected will not inform, it is meet to binde him over to give evidence. *Dal.* 206.

Form of a recognisance for the informer against a felon. *Lam.* 214, 216.

"It is not necessary in an information for the "King to recite the statute upon which the Bill "is framed, but to say *contra formam statuti in hu-* "*jusmodi casu editi & provisi.* Crom. 104. *b.* nu. 50. 53.

Infor-

Informers and Promoters.

Informer compounding for any offence against a penall law, without consent of some of the Courts of Westminster, or willingly delaying or discontinuing a suit, loseth 10 pound and is to stand in the pillory being convict thereof at the Quarter Sessions 18 *El cap.*5. 27 *El.c.* 10. *Lam.*439. 609. the same to be heard at the Quarter Sessions.

"All actions for any offences against any penall "statute, shall be commenced in the County onely "where the offence was committed, and upon the "defendants pleading *nihil debet*, or Not guilty, "the plaintife must prove. 1. the offence. 2. to be "done in the county. 21 *Jac. c.*4.

"No officer shall receive, file, or enter of record, "any information, Bill, &c. untill the informer hath "taken his oath before some judge of that court, that "the offence was done in the same county within a "yeer before the information or suit. 21 *Jac. c.*4.

Ingrosser.

Ingrosser is he that by any contract (unless by grant of land or tithe,) buyeth corn on the ground or other dead victuals, to the intent to sell them again, except buyers of barley or oats, to make malt or oat-meal. Victuallers not forestalling, Badgers and Drovers not abusing their lawfull license, buyers of forrein commodities, except fish and salt, are excepted. 5 *Ed.* 6. *c.* 14. 5 *Eliz. c.* 12. 13 *Eliz. c.* 25 *Lam.* 451.

Inne-holder.

Inne-holder taking any thing for litter, or excessively for hay, or above a halfe penny a bushell above the

the market for oats, loseth four times the value of the overplus. 13 *R.* 2 *c.* 8. 4 *H.* 4 *c.* 25. *Lam.* 473, repealed by 21 *Jac. c.* 21. *Vide plus* Horse-bread.

Inne-holder or Ale-house keeper may be compelled by a Constable to lodge strangers. *Dal.* 28.

Inne-holder that suffereth a non inhabitant to ripple in his house, shall incur the penalty limited. 1 *Jac. c.* 9. 1 *Car. c.* 4.

Inne-keeper, taverner, victualler, is within the statute. 1 *Jac.* 9. *c.* 4 *Jac. c.* 5, 1. *Car. c.* 4.

Inmates, *vide* Cottages.

Inrolement.

One Justice of Peace may joyn with the Clerk of the Peace, in taking of an inrolment of an indenture of bargain and sale of lands, &c. lying in the same county, and either of them is to have 12 pence if the land exceed not in value 40 shillings a yeer, and if it do, then 2 shillings 6 pence a piece; and taking above, fined. 27 *H.* 8. *c.* 16. *Lam.* 196, 369. 393. 436.

Issues.

The Sheriff that gathereth other estreats of issues then of right are due, forfeiteth five marks to the King, as much to the the party. 27 *Elis. c.* 7. *Cro.* 201. 2 *Lam* 432. Forfeitures of issues by jurors are to be levied by Records of execution awarded by the Justices of Peace. 27 *Elis. c.* 7. *Lam.* 585.

Judgement.

Ambiguity arising in judgement betwixt the Justices of Peace, they shall forbear to proceed till the Judges come; but if they will proceed, the judgement

is

is not void, but must be reversed. *Lam.* 568. The commission it self.

Where the statute appointeth a punishment, there judgement must be according to the statute. *Lam.* 570.

Upon trespass, riots, and such other offences where no forfeiture is prescribed, judgement is to be taken and ransomed *Lam* 570.

Vide plus the severall offences.

Juglers, *vide* Licence.

Jurors.

Jurors both for enquiry and triall, ought to be *Probi & legales homines. Lam.* 396.

What persons may not be Iurors, and being Iurors make presentments void, unless there be twelve besides.

1 Attainted in conspiracy, 2 Attaint 3 *Decies tantum*, 4 Subornation of perjury, 5 Concealment they be not *probi*, and their presentment void, unless there be twelve besides them that are not blemished *Lam.* 396. 6. outlawed, 7 Abjured, 8. Condemned in a *Præmunire*, 9 Attainted of treason, 10 Felony, &c. *ibid.* 11. Women, 12. Infants under 14 yeers of age 13. Aliens, 14 Clergy-men. *ibid.*

Jurors must be inhabitants or freeholders within the county, to the value of 40 shillings *per annum* but in Cities and Boroughs to the value of 40 shilling in goods. *Lam* 396, 397.

Jurors for triall of an indictment within the County Palatine of Lancaster must have 5 pound *per annum. ibid.*

Juror 70 yeers old or decrepit, returned by the Sheri-

Sheriff must serve if the Justices will; but he may sue the Sheriff upon the Statute of *Westminster*, 2. *c.* 38. *Lam.* 397.

Juror exempted by Charter with those words *Licet tangat nos*, is to be discharged upon his appearance, but he ought to shew it to the Sheriff. *ibid.*

When there is want of sufficient Jurors, no exemption can discharge. *ibid.*

Presentment is good though some of the Jurors be allyed to him that procureth the presentment: but it is no discretion in the Justices to suffer any such to be impannelled. *Lam.* 398.

If the particular Juries for the hundred cannot be supplied by those of the hundred, it is better to take *Tales de circumstantibus*, of other hundred, then to be renewed with a *Tales* from Sessions to Sessions. *Lam.* 398.

Jury of one hundred may present an offence done in another hundred. *Lam.* 399.

Justices may command the Sheriff to alter the pannell, and he refusing forfeiteth 20 pound *ibid.* 3 *H.* 8. *c.* 12.

All the Jurors must be sworn, otherwise their presentments are void: but the Record being that all the Jurors were sworn, the presentments are good though all be not sworn. *Lam* 399.

Juror after he is sworn, upon cause may be removed by the Justices. *Lam.* 400.

Jury after swearing adjourned to another time, may be then sworn again. *ibid.*

Juries of enquiry must be 12 but there may be more, and it is best to have them odde. *Lam.* 400.

If 12 Jurors do agree, the residue cannot gainsay. *ibid.*

Juries of enquiry ought not to be committed to a keeper, nor kept without victuals, nor carried out of the town, but may be adjourned to another place to give up their verdict. *Lam.* 400.

Jurors

Jurors which do wilfully conceal offences presentable, and which be complained of by bill, may be enquired of by persons whereof every one may dispend 40 shillings *per annum*; and such concealment being found within a yeer after, every Juror shall be amerced in open Sessions. 3 *Hen.* 7. *c.* 1. *Lam.* 402. 402.

Jurors that discover what they have done, are to be fined. *Lam.* 402.

Juror taking any thing to make a favourable presentment, shall be imprisoned and ransomed. *Lam.* 441. *Cro.* 84. 2. 5 *Ed.* 3. *c.* 10.

No Juror to be returned without an addition whereby he may be known 27 *Eliz. c.* 7. *Lam.* 432.

Vide plus Challenge.

Justices of Peace.

Justices of Peace are of three sorts, and they created three ways.

1 By act of Parliament, as the Bishop of *Ely* and his successors, and their temporall stewards of the Isle of *Ely* for the time being, and so the Archbishop of *York* and the Bishop of *Durham*, their successors and temporall Chancellors. 27 *H.* 8. *cap.* 24.

2 By letters patents, as Mayors, and chief officers in Towns Corporate, and such the King cannot discharge again at his pleasure, because granted to them and their successors.

And if the grant be to such as are not learned in the Law, if it be onely *ad pacem conservandam &c.* or *ad inquirendum tantum* it is good: but if it be *ad audiendum & terminandum*, by some it is void, &c. See 18 *E.* 3. *cap.* 2. 13 *R.* 2. *cap.* 7. & 17 *R.* 2. *cap.* 10.

3 By Commission, the ordinary course which may be revoked divers ways.

1 By death of the King, by Writ under the great seal, or by supersedeas, but that may be received by *Procedendo*. 2 By

2 By implication as by having their names out of the Commission renewed.

3 By accession of another office, as Sheriff, Coroner &c. New *Dalton* page 12.

Justices of Peace must be carefull that they suffer not the King to be prejudiced, where they may lawfully prevent it. *Lambert* 521.

It is safest for Justices of Peace not to rely upon breef Collections of the statutes, but to peruse them in the book at large.

And for the better encouragement of Justices, Constables, and other officers, and assistants, they are allowed upon actions brought against them to plead the generall issue, and to give the speciall matter in evidence, and for their wrongfull vexation double costs: And such actions to be brought shall be laid in the County only where the fact was done, & not elsewhere. 7 *Jacob. cap.* 5 21 *Jacob. cap.* 12. & 3. *Car. cap.* 1.

Justices of Peace were created. 1 *Ed.* 3. *c.* 15. *Dal.* 6. *Lam.* 20.

Justice of Peace is Judge of Record. *Dal.* 7. *Cro* 120. 2. *nu.* 1. *Lam.* 62.

He may take a recognisance of Peace, which none can do but a Judge of Record. *Dal.* 8. *Lamb.* 186. *Crom.* 196. 2. *num.* 1.

His warrant is not disputable by the Constable, but it is to be understood when the Iustice of Peace hath jurisdiction of the cause. *Dal.* 8. *C. o.* 147. b. *Lam.* 65. 91.

His testimony in some cases is of as great force, and in some cases greater then an indictment of 12 men upon oath, as in the cases of force, riots, presentments of high ways. *Dal.* 9. *Lam.* 65.

The authority granted to Iustices of Peace by commission doth determine by death of the King, or at the Kings pleasure. As to be discharged by Writ under the great Seal. 2 By *Supersedeas.* 3 By granting a new commission and knowledge thereof. *Dalt.* 11. *Crom.* 188. 2. *Lam.* 69.

2 By

2 By publishing the new commission at Assizes or Sessions, or any County Court.

3 By holding open Sessions by vertue of the new commission. *Dal.* 11. *Cro.* 188. a. *Lam.* 69.

4 "By accession of another office, as being Sheriff "or Coroner of the County. *Cro.* 121. *nu.* 13, 14. "but so doth not the addition of a greater name of "dignity, as Knight, Serjeant at Law. *Cro.* 188. a.

Exercising the office of a Justice of Peace before oath taken, is fineable. *Dal* 15. 352.

Justice of Peace hath not authority but in the County where he is Justice. *Dal.* 23.

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or Felony. *Dal.* 23. *Cro.* 120. b. *nu.* 12.

Justice of Peace is not to intermeddle in any City or Corporation, which have their proper Justices. *Dal.* 23. *Crom.* 8. a. *nu.* 30. 181. b. 189. a. *Lam.* 47. *Cro.* 121. a. *nu.* 20. 1 & 2 *P. & M. c.* 18.

Justices of Peace ought not to execute their offices in their own case. *Dal.* 352. *Cro.* 68. a. *nu.* 4. Yet a Justice of Peace being assaulted, may commit the offender to prison. *Cro* 68. a. *Lam.* 134. *Dal* 352.

So *Crompt.* thinketh that a Justice of Peace may record a forcible entry made upon his own possession, and commit the offender. *Cro.* 67. b. 68. a. *nu.* 4.

Justice of Peace chargeth one that maketh an assault or affray, to keep the Peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour. *Dal.* 195.

Justice of Peace must proceed by the prescript of the commission and statute. *Dal.* 20.

Where the statute referreth the triall, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath. *Dal.* 22. 155.

One Justice of Peace ought not to bind one to appear at the Quarter Sessions, to answer his fault com-

committed against a penall law, except the stat. of Labourers *Lam.* 187. *Dal.* 339.

Every Justice of Peace is a conservatour of Rivers within his County. *Lam.* 189.

Justice of Peace not giving remedy to the party grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of Assise, or the Lord Chancellour, is to be put out of commission by the Lord Chancellour, and punished according to his desert. 4 *Hen.* 7. *c.* 12 *Lam.* 370. *Cro.* 120. b. *nu.* 6. *Dal.* 353.

One Justice of Peace may command fresh suit, hue and cry, and search to be made by officers and others, after thefts, robberies; enjoyn watches for the arresting of suspected persons and night-walkers, high-ways to be enlarged, that two Constables be chosen in every Hundred, forbid Fairs and Markets in Churchyards, command all between 15 and 60 to be sworn to the peace, charge the Constable to arrest all such as be suspected to be drawlatches, wasters, or robbers of men, *Lam.* 185.

Justice of Peace taking bond in his own name, and not *Domino Regi*, in a cause touching the King, is to be imprisoned. 33 *Hen.* 8. *c.* 39. *Lam.* 102. 143.

Justices of Peace at their Sessions are of equall authority. *Lam.* 385. *Vide Cro.* 122. a. *nu.* 33.

Justice of Peace must send his prisoners to the common Gaol. *Lam.* 133. 5 *H.* 4. *c.* 10.

A felon is brought before a Justice of Peace upon suspicion, though it appear to the Justice he is not guilty, yet he may not set him at liberty, but so as he may come to his triall. *Lam.* 133. *Dal.* 279. 304. 353. *Cro.* 40. b. *nu.* 20. otherwise it will prove a voluntary escape in the Justice; for he is not to be delivered by any mans discretion. *Dal.* 8. *Lam. ut supra.*

A man is arrested for felony by a Constable or other, who afterwards hath knowledge that there is no such felony done, the opinion of *Kyble. Comby.*

and Serjeant *Fromick*, was, that he might set him at liberty: but if one be killed, and another be arrested for suspicion, though after he know the arrested is guiltless, or was arrested for malice; he ought not to set him at liberty; but must be delivered by course of law, otherwise it is felony. *Cro.* 40. *nu.* b. 20.

"Justice of Peace travelleth, or is in another coun-"ty, he cannot cause one to be brought before him "out of the county where he is Justice into another county. *Dal.* 23. *Cro.* 120. *b. nu.* 12.

What things Justices of Peace ought to do ex officio.

Record a demurrer upon the evidence. *Lam* 539.

Give day to the party to bring in a Record that is before other Justices, which is pleaded by way of justification. *Lam.* 539.

If thinking an enditement to be void, they have discharged the prisoner, paying his fees; yet (upon change of their opinion) they may stay him any time before judgement. *Lam.* 540.

Justices of Peace ought not to suffer the King to be disadvantaged, if they may lawfully prevent it. *Lam.* 540.

In absence of the Kings Atturney, the Justices of Peace may take issue with one that pleadeth a pardon, that he is one of the parties excepted. *Lam.* 540.

Justices of Peace cannot acquit felons by proclamations; but if no prosecution be, they are to keep them till the coming of the Justices of gaol-delivery. *Lam.* 550.

Justices of Peace may enquire of all manner of felonies at the common law, or given by any statute and of all manner of trespasses done against the Peace of the King, and of such trespasser wherein action of the case will lie for trepass or deceit; for in the end of the Writ grounded upon the case, it is contained

contra

contra pacem nostram. Cro. 8. 2. *nu.* 25.

"Justice of Peace shall be punished for conspiring "with another to indict a stranger at the Sessions, "but not for a thing done by him in Sessions as a "judge. *Cro.* 122. 2. *nu.* 32.

One Justice of Peace rebukes another; neither he, nor any of his fellow Justices, can commit him, for all are by one authority; and therefore hath no remedy if the King will not remove him: but if one Justice abuse another in open Sessions, it seemes the rest may bind him to the Peace. *Cro.* 122. 2. *nu.* 33. 134. b *Lam.* 385.

Defaults against the statute. 3 *Hen.* 6. 6. 11. for levying of wages for Knights of the shire are to be heard and determined by enquiry, for the King, or action for the party before the Justice of Peace. *Lam.* 512.

"Justice of Peace needs not show his commission, "by which he is made Justice, when he justifieth the "doing of any thing as a Justice; for he is Justice "of Record, and the commission remaineth with "the *Custos Rotulorum* of the said County, and he "is called by the commission in open Assises and "Sessions. *Cro.* 120. b. *nu.* 13. *Lam.* 387.

"Justice of Peace hath a Record in his hands, "and is discharged of his office, he cannot certifie "the same without a Writ of *Certiorari*, although he "be made Justice afterwards. *Cro.* 121. 2. *nu.* 15. & "132. 2.

"Justice of Peace may have his action of the "Case against him that calleth him *False Justice of "the Peace.* It seemeth also, that he may be indicted: "for they may enquire of all trespasses, where a "man may have his action of the Case. *Cro.* 121. 2. *nu.* 21. & 122. 2. *nu.* 29.

"*Quicquid Justiciarius fecerit de Recordo, igno-*
"*rantes, & pro defectu scientiæ, non erit pro eo punitus.*
"Sicut accidit de Senescalla libertatis Abbatiæ de
"Crowland, qui colore libertatis de Infangthefe, judi-

" *cavit hominem mori contra legem: pro eo libertas* " *seisita fuit in manus Regis, & nulla pœna Seneschallo.* " Cro.121.*b*.nu.24.

" *Justiciarius non potest puniri pro re per ipsum facta* " *judicialiter: sed Officiarii, ut Vicecomes, & alii* " *Officiarii de Recordo erunt puniti.* Cro.122.*a*.nu.28.

" Justice of Peace certifieth into the Kings Bench, " that such a man broke the peace in his presence, " the party shall be put to his fine without any Tra- " verse to the same. *Cro.*132.a.

" Justice of Peace who is of the Quorum, ought " to be resiant within the County where he is Ju- " stice of the Quorum. 2 *H.* 5.*c.*4 *Cro.*122.a.*nu.*34.

" Justice of Peace was put out of Commission in " *Camera Stellata*, for that he refused to take surety " of the peace of one that came before him, who " offered to find surety of the peace; for that the Ju- " stice which granted the warrant was not his friend, " and thereupon would not go before him to be " bound. *Cro. Jurisd. of Courts.*31.b.

" One Justice of Peace upon his view of forcible " detainer may record the same by 15 *R.* 2. *c.* 2. but " in case of Riot or Rout, &c. there must be two " Justices of Peace with the Sheriff or Under Sheriff. " 13 *H.*4.*c.*7. *Cro.*61.b *nu.*9.

" Justice of Peace commandeth one upon pain of " 10 li. by his precept, to be at the next Quarter " Sessions, and he appeareth not: No *Sciri facies* " shall go forth more then if there had been a *Sub-* " *pœna*: but it seemeth that he shall be attached to be " at the next Sessions, upon a contempt. *Cro.*123.a. " *nu.*9.

" An affray is made within a Corporate Town, " whilest the Sessions be held there: And that " Town hath Iustices within it self, the Iustices of " Peace shall not entermeddle there; but otherwise " it is at the Assises. *Cro.* 146.b.

Certain

Certain Cautions or Advices to Justices of Peace.

1 That they do nothing in their office before they have taken their oath.

2 That they execute not their office in their own case. See 43. *Eliz. cap.* 7.

3 To be carefull in the execution of the statute of Riots. And if the truth cannot be found therein, that they certifie the same within a moneth.

4 That upon a forcible entry, no restitution be made without Enquiry

5 That upon notice of any Treason, &c. they signifie the same to some Privy Councellor.

6 Circumspection in bailing of prisoners, though it appear that they are not guilty of the offence.

7 That all Recognisances taken by them, be in the Lord Protectors name.

8 That Recognisances be certified at their next Quarter Sessions, or Gaol-delivery, as the case shall require.

9 That they meet at every Easter Sessions at the least.

10 That their examinations taken touching misentring of plaints in County Courts; or defaults in gathering the Shire amerciaments, be certified into the Exchequer, within a Quarter of a yeer upon pain of 40 shillings.

11 That offences presented to them by Surveyours of Highways, be Represented at the next Quarter Sessions.

12 That oaths taken by them upon the submission of any Recusant, be certified at the next Quarter Sessions.

13 That they do Iustice, and give remedy to all parties grieved in any things within their power.

And all these matters are penall unto them if they offend in any of them, and therefore it behooveth them to be circumspect therein.

A Justice of the Peace may be indicted at the Quarter Sessions as another man for an offence there triable. But one Justice cannot amerce another for absence, as the Justices of Assises may do, nor can one of them imprison another for an abuse offered to him, for *Inter pares non est potestas. Lam.* 385.

They must execute their power in their proper County onely; But they may meddle in Corporate Towns and Franchises within the County which have return of Writs, but no proper Justices of Peace; or where a statute gives them power so to do, as 1 *Jacob. cap.* 27. & 7. *Jacob. cap.* 11. of Guns and Partridges, & 22 *H.*8. *cap.*5. of Bridges: A difference hath been taken between Acts Judiciall, as Examinations upon oath, Recognisances, warrants, &c. and ministeriall, as to take the oath of one robbed, a Recognisance by *Supplicavit*, &c. these they may do. *Hellier's* case, 7 *Caroli. B. R. p. Curiam.* 13 *E.*4.8.9 *H.*4. 1. *Plowd.* 37.

Justices of Peace ought to be resiant within the same County (except Lords, and Judges) &c. 9 2 *H.*5. *cap.*4. 2. *H.*5. *Stat.*2. *cap.*1.

Labourers and Servants.

ONe Justice of Peace may cause all artificers and other persons meet to labour by his discretion, to work by the day in hay and corn-harvest time, or imprison the refusers in the stocks for two days and one night. 5 *Eliz.* 4. *Dal.* 77. *Lam.* 475.

The Constable refusing to stock them loseth 40 shillings.

One Justice of Peace under his hand and seal may licence labourers in hay and harvest time to go into another countrey to work. *Dal. ibid.*

One

One Justice of Peace upon complaint may compell meet persons to be bound as apprentices to husbandry, or any other art, &c. and for refusall commit them to ward, & there to remain untill they be bound to serve according to the statute. *Dal.* 77. 5 *El. c.* 4.

One Justice of Peace may take order betwixt the master and apprentice, for want of conformity in the master, bind him over to the Quarter Sessions, where four Justices, one being of the Quorum, may discharge the apprentice: and if fault be in the apprentice, inflict due Correction, *Dal.* 78. but if the first Justice find fault in the apprentice, *quere* if he may by 7 *Jac. c.* 4. send him to the house of Correction, as an idle disorderly person. *Dal.* 78.

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure within his term. *Dal.* 79. 5 *Eliz. c.* 4.

But an apprentice must be discharged by four Justices of Peace in open Sessions. *ibid.*

One Justice of Peace may command vagrant persons to prison, if they will not serve. *Dal.* 83.

One Justice of Peace may make his Warrant to attach a servant departing to be at the Sessions, or may send him to the house of Correction. *Dal.* 78.

Two Justices of Peace, upon complaint that a servant departed before the end of his term (except 1 cause be allowed by one Justice of Peace; or 2 at the end of his term, without one quarters warning before two witnesses; or 3 hath refused to serve for the wages appointed by proclamation, according to the statute; or 4 hath promised to serve accordingly, and doth not) may examine the matter, and may commit without bail such faulty person till he be bound to serve and continue, and then he is to be discharged without see to the Gaoler. *Dal.* 79. *Lam.* 330.

Two Justices of Peace may imprison the master for 10 days without bail, and the servant for 21 days, that giveth or taketh greater wages then are allowed

lowed by ſtatute. *Dal.* 80. *Lamb.* 330. and the maſter loſeth 5 li. 5 *El. c.* 4.

All retainer, promiſe, or payment of wages, or any other thing contrary to ſtatute, and every writing and bond for the purpoſe is void. 5 *El. c.* 4 *Dal.* 79.

Two Iuſtices of Peace may impriſon for a year or leſs any ſervant, workman, or labourer, that doth make aſſault or affray upon his maſter, or any that hath the charge or overſight of them, or of the work, being proved by the confeſſion of the party, or oath of two. *Dal.* 79.

Or the Iuſtices at the Seſſions may inflict other puniſhment.

One Iuſtice may bind the offender to the good behaviour, and ſo to the next Seſſions. *Dal.* 79. *Lam.* 330. & 473.

Two Iuſtices may compell any woman of the age of 12 and under 40 being unmarried, to ſerve by the year, week or day, for ſuch wages as they ſhall think meet, or commit her to ward till ſhe be bound. *Dal.* 80. *Lam.* 330. 331.

The retainer of any to ſerve in the arts of clothing, Woollweaver, Tucker, Fuller, Clothworker, Sheerman, Dyer, Hoſier, Taylor, Shoemaker, Tunner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Capper, Matmaker, Feltmaker, Bowyer, Fletcher, Arrowheadmaker, Butcher, Cook, or Miller for leſs then a yeer, is void. 5 *El. c.* 4. *Lam.* 473. *Dal.* 79.

"No perſon ſhall interrupt, or deny, let or diſturb "any free or rough Maſon, Carpenter, Bricklayer, "Plaiſterer Ioyner, Hardhewer, Sawyer, Tiler, "Pavier, Glaſier, Limeburner, Brickmaker, Tile-"maker, Plumber, or Labourer born in the Realm, or "any Denizen, to work in any of the ſaid crafts, "in any City, Borough, or Town Corporate, with "any that will retain him or them, though they do "not inhabit, or be free there, upon pain of 5 li. the

one

"one moity to the King, the other to the Informer "5 *Ed.6.ca.*15.

Any unmarried, or under thirty years and married, are compellable to serve in any of the said arts, or to be imprisoned untill they will serve, 5 *El.c.*4 upon request of any person using the said trades, except the person be lawfully retained with some other, or have 40 shillings *per annum* in lands, or 40 pound in goods, or some farm in tillage. *Lam.*473. *Dal.*79.

None retained in husbandry to depart at his time into any other limit, town, or parish, without testimoniall, on pain of 21 days imprisonment; and to be whipped, if then he brings none; and receiver of such loseth 5 li. *Lam.*474. *Dal.*85.

Labourers not working so many hours as they ought, lose 1 d. an hour. *Lam.*474. 5 *El.c.*4.

Servant falling sick, or *non potens corpore*, the master may not put him away, nor abate his wages *Dal.*84.

Any taking work by great, and departing unlawfully before the work be finished, loseth 5 pound, and is to be imprisoned for a moneth. *Lam.*474. 5 *El. cap.* 4.

Any taking an apprentice contrary to order of law, or exercising an art not being apprentice therein 7 yeers; loseth 10 pound. 5 *El.c.*4. *Lam.*475. *Cro.*83.a.

Servant departing into another shire, is indicted for it in the County whence he departed; the Justices of Peace may award a *Capias* to the Sheriff of that shire whereunto he departed, returnable before themselves. 5 *El.c.*4. *Lam.*525.

The sufficiency of the cause of the masters putting away of his servant, or the servants departing from his master within his term, must be proved at the Quarter Sessions. *Lam.*610. 5 *Eliz. cap* 4.

Housheould servant spoileth the goods of his deceased master, and after proclamation in the Kings Bench maketh default of appearance there; it is fe-

lony, but not enquirable by the Justices of Peace. 33 H.6.c.1. *Lamb.* 281, 548. *Dal.* 266.

A man not able nor sufficient to keep a servant, doth retain a servant; such retainer is void. *Dal.* 82.

Retainer of a servant in husbandry without expressing any term, shall be for one year. *Crom.* 184. a. *Dal.* 83. it is according to the statute, 5 *El.c.*4.

One retaineth a servant for 40 days, and afterwards another retaineth him for a yeer; the first retainer is void. *Cro.* 184. a. *Dal.* 83.

A servant cannot be discharged by his master without his own agreement, or for some cause allowed by a Justice of Peace. *Dal.* 84.

An apprentice cannot be discharged by his master but by writing, for an apprentice cannot be but by writing. *Dalt.* 86. *Crom.* 184. b. 185 b. *Br.* 27, 30. *pl.* 229.

A servant put away shall have his proportionall wages for the time he served, but it must be by the help of a Justice of Peace. *Dal.* 84. *Cap.* 31. *ba.* 87.

A servant of his own accord departing from his service, loseth all his wages. *Dal.* 84.

A servant refusing to do his service, it is a departure in law, though he stay still with his master. *Dal.* 84.

Detaining of wages, or of meat and drink, is good cause of departure, but to be allowed by a Justice of Peace. *Dal.* 84. *Cro.* 185. a.

A woman married after she is retained, must serve out her time. *Cro.* 184. b. *Dal.* 82.

No servant in husbandry, artificer, or victualler, nor any labourer shall carry any buckler, dagger, or sword, on pain to forfeit the same, but for defence of the Realm, or travelling with their master, or about their masters business. 12 *R.*2.*c.*6. *Cro.* 185. b. 76. b.

Any two Justices of Peace may give their consents with the Churchwardens and overseers, or to the greater part of them, to bind as apprentices the children of poor parents, till the age of the man-childe

of

of 24 and of the woman till 21. 39 *El.* 3. *Lam.* 331. 43 *El.c.* 2. *Dal.* 83.

Retainer according to ſtatute, though no wages be ſpoken of, is good, and ſhall have wages according to the proclamation. *Dal.* 84.

Retainer not being according to ſtatute, is void, except it be by Indenture. *Dal.* 84.

Retainer upon condition is good *Dal.* 84.

Retainer without expreſſing in what office is good. *Dal.* 84.

Retainer for life is good. *Dal.* 84.

Retainer for a yeer to ſerve when he ſhall be required, is not good. *Dal.* 84.

By retainer the ſervant is preſently in ſervice, though he come not into his maſters ſervice indeed. *Dal.* 84.

The executor (the maſter dying) muſt pay wages to the ſervant hired according to ſtatute, not otherwiſe, except it be by Indenture. *Dal.* 84.

Larceny.

Larceny is the felonious and fraudulent taking another mans perſonall goods, removed from his body and perſon, without his will, to the end to ſteal them. *Lam.* 272 *P.R.* 129.

Perſonall goods are { Wholly anothers { Dead, Alive, / His own, yet alſo a property in another.

Dead

Dead goods,
- In their own nature chattels, as money, plate, houshold-stuff, *Lam.* 273 wool severed from the sheeps backs to take the skin and leave the body, the flesh of tame or wild fowl or beast. *Lambert* 275. goods of the Church, Parish, or of an unknown person. *Lam.* 276.
- Once no chattels, made chattels by the owner, as mowed corn, mowed hay, wood felled, apples gathered, &c. *Lam.* 276.

Alive,
- Tame, as horses, beasts, sheep, swine, pullen. *Lam.* 273. 274.
- Wilde, and made tame by
  - Art,
  - Restraint of liberty.

By art, as
- A tame deer by common law, *Lam.* 274.
- By statute a Falcon, Tarcelet, Lanner, Lanneret, lost without bringing it to the Sheriff to be proclaimed. *Lam.* 274.

By restraint of their liberty, as yong pigeons, young herons, young hawks out of their netts, fish in a trunk, stew, or pond. *Lam.* 274.

A mans own goods
- Where he hath given a special property to another, as by bailment, pawning, &c. and feloniously taketh it again. *Lam.* 277. *Dal.* 270.
- Where one coming lawfully to the possession, by lending altereth the property, as by melting of borrowed plate, and the lender taketh the mettall feloniously. *Lam.* 277. *Dal.* 270.

In what goods Larceny cannot be committed.

In goods of { Profit. / Pleasure.

Good of profit as where is { An owner: and they are { Reall. / Personall. / No owner, as treasure, trove, wrecked, strayed. *Lam.* 276.

Reall are { Distinct from the freehold, as charter of lands or a ward. *Lam.* 276. / Annexed to the freehold, as apples on the tree, a tree growing, lead from a house or from a Church. *Lam.* 276.

Personall, as wild things using their wildness, as pigeons flying, hawks not reclaimed, fishes in the river. *Lam.* 274. Pheasants, Partridges, Hares, Conies, Herons, Swans, or Deer that are abroad. *Lam.* 275. *Dal.* 270.

Goods of pleasure, as dogs, apes, parrats, singing birds, a diamond, rubie, or other stone not set in gold or silver. *Lam.* 275. *Dal.* 269.

Larceny is { Grand Larceny, / Petty Larceny.

Grand Larceny is, where the thing stollen is above the value of 12 pence, and is punishable by death. *Dal.* 262.

Petty Larceny, if the thing stollen exceed not 12 pence,

pence, and is punishable by the discretion of the Justices before whom he is arraigned, and forfeiteth his goods. *P.R.* 129. *Dal.* 262.

Divers petty Larcenies put in one indictment, and above the value of 12 pence, are punishable by death *P.R.* 121. *Lam.* 273. *Dal.* 263.

Divers found guilty of one Larceny above 12 pence, they all must die for it, for that felony is severall in law, even as those others were severed in act. *Lam.* 273. *Dal.* 263.

What acts do amount to larceny.

To carry away the plate delivered to me in a tavern to drink in. *Lam.* 278. *Cro.* 35. *b. nu.* 4. *Dal.* 263.

To carry those things one is hired to carry, to another place then he was hired, and there feloniously to convert them to his own use. *Lam.* 279. *Dal.* 264. *Cro.* 36. *a. nu.* 10.

A servant not being an apprentice to go away with the goods of his master above 40 shillings which were in his custody. *Lam.* 279. 280. *Dal* 264.

Carrier to convey away or convert to his own use the goods after they are brought to the place appointed by the owner. *Dal.* 264. *Lam.* 279.

He to whom the key of ones chamber door is delivered, openeth the door and taketh away the goods *Lam.* 279. *Dal.* 266.

A servant receiving 20 pound in gold of his master to keep, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, *viz.* money. *Dal.* 265. *Cro.* 50. *a. Lam.* 280.

A guest is harboured, who carrieth away his sheets out of his chamber with purpose to steal them, and is taken in the house. *Dal.* 266, *Cro.* 35. *a.* nu. 2. *Lam.* 281.

One servant runneth away with the goods of his master

master delivered unto him by his fellow-servant to the value of 40 shillings, or converteth them to his own use. *Dal.* 263. *Cro.* 30. *a. Lam.* 281.

A carrier embezels part of the goods commited to his charge. *Dal.* 264. *Cro.* 36. *a.* nu. 12.

A servant receiveth of his master a piece of cloth to keep, and he maketh a garment thereof, and goeth away therewith. *Cro.* 50. *a. Dal.* 265. 266.

A servant taketh away or spoileth the goods of his deceased master; upon default of appearance in the Kings Bench after proclamation, it is felony. *Dal.* 266. 33 *H.* 6. *ca.* 1. *Lam.* 281.

Taking an horse feloniously, and apprehended before he get the horse out of the close. *Lam.* 282. *Dal.* 267.

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledge he presently forsake her and his house. *Lam.* 282.

What acts do not amount to larceny.

One having goods bailed unto him, converteth them all to his own use. *Cro.* 36. *a.* nu. 11.

A carrier conveyeth the goods to another place then he was hired, and there converteth them to his own use. *Lam.* 278. *Dal.* 264. *Cro* 36. *a.* nu. 11.

An obligation or wares delivered to a servant, who receiveth the money or selleth the wares, and runneth away with the money. *Dal.* 265. *Cro.* 35. *b.* nu. 50. *a. Lam.* 280.

A wife stealeth goods in the company of her husband, or by his command; *quere* if it be without his compulsion. *Lam.* 282. *Dal.* 272.

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larceny in neither. *Lam.* 282. *Dal.* 272.

Goods stollen by an infant under 12, a lunatick during

during his lunacy, a mad man, and deaf and dumb. *Lam.* 282, *Vide Dal.* 273.

Riding away with a lent horse. *Dal.* 264.

A clothier delivereth wool or yarn to his work-folks, who embezell or sell part thereof. *Dal.* 264.

Goods delivered to another to keep, and he consumeth them, or converteth them to his own use. *Dal.* 264, *Lam.* 278.

So money or goods delivered to one to deliver to a third person, and the first receiver fleeth away with them, or converts them to his own use. *Dal.* 264.

A servant hath a horse delivered by his Master to ride to Market, or money to go to a faire to buy cattel or other, or to pay to another man, and the servant goeth away therewith; *quære* if it be felony by statute. *Dal.* 265.

A receiver receiveth his masters rents, and goeth away with them. *Dal.* 266. *Cro.* 50. *a.*

3. Leather.

Butcher that gasheth, slaughtereth, or curteth the hide of the ox, steer, bull or cow, whereby it is impaired, loseth 20 pence; or that watereth any hide except in June, July, or August, or putteth to sale any putrified or rotten hide, loseth for every hide 3 shillings 4 pence. 1 *Jac.* 22. *Lam.* 462.

Butcher using the said craft and also the mystery of tanner, loseth every day 6 shillings 8 pence. *ibid.*

Tanner using also the mystery of a shoemaker, currier, butcher, or any artificer using the cutting or working of leather, loseth the hides and skins tanned. *ibid.*

Every person, other then such as had a tanhouse 29 *Martii* 1603. and did then occupy tanning of leather, or hath been taught as an apprentice or hired servants 7 yeers in that mystery, or hath been wife

or

or ſon of a tanner brought up in this myſtery 4 years, or the ſon or daughter of a tanner, or ſuch as hath married the wife or daughter of a tanner, having left to them his tanhouſe and fats, that tanneth any leather, or taketh any profit by tanning, loſeth all the leather tanned by him. *Lam.* 462, 463. 1 *Jac.* 22.

None may buy, contract for, or beſpeak any rough hides or calves skins, but onely tanners or tawers of leather, except ſalt hides for the neceſſary uſe of ſhips, on pain of 6 ſhillings 8 pence for every hide. 1 *Jac.* 22. *Lam.* 463.

None ſhall foreſtall any hides coming to fair or market, (except of ſuch as kill for the proviſion of their houſe) on pain of 6 ſhillings 8 pence for every hide. 1 *Jac.* 22.

None may buy tanned leather nor wrought, but ſuch as will convert the ſame into made wares, (except necks and ſhreds of ſadlers and girdlers) upon loſs of all the leather. *Lam.* 463. 1 *Jac.* c. 22.

Tanner ſuffering any hide to lie in the tanlimes till the ſame be over-limed, or that putteth any hides into the tan-fats before the lime be perfectly wrought out of them, or uſeth any thing in tanning but onely Aſhbark, Oak-bark, Tapwort, Malt, Meal, Lime, Culver dung, or Hen-dung, or hath ſuffered his leather to be frozen, or to be parched with the fire or ſummer ſun, or hath tanned any rotten hides, or hath not ſuffered the hides for outward ſole leather to lie in the woozes twelve moneths, and for the upper ſole leather nine moneths, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requiſite, or hath put to ſale any tanned leather, not wrought according to the ſtatute, ſhall loſe the hides or value of them. 1 *Jac.* c. 22. *Lam.* 463, 464.

Tanner that raiſeth with any mixtures any hides to be converted to backs, bend-leather, clouting leather, or any other ſole leather, except the ſame be fit & ſufficient

ſufficient for that uſe, loſeth the hides. 1 *Jac.* ca. 22. *Lam.* 464.

Any that putteth to ſale, exchangeth, or otherwiſe departeth with any tanned leather red and unwrought, being in open fair and market, unleſs it be ſearched and ſealed in ſome open fair or market, or putteth to ſale any leather not ſearched and ſealed according to the ſtatute, loſeth for every hide or piece of leather 6 ſhillings eight pence, and alſo for every twelve calves skins or ſheep skins 3 ſhillings 4 pence, and alſo the hides and skins or their value. 1 *Jac. c.* 22. *Lam.* 464.

Tanner puting to ſale any leather inſufficient, or not throughly wrought and tanned, or not well and throughly dryed, and the ſame ſo found by the tryers appointed, 1 *Jac. c.* 22. loſeth ſo much as is inſufficient. *Lam.* 464.

He that ſetteth his fats in tan hills or other places where the woozes or leather to be tanned in the ſame may take any unkinde heats, or hath put any leather into warm woozes, or hath tanned with warm or hot woozes, forfeiteth 10 pound, and is to ſtand in the pillory three market daies. 1 *Jac. c.* 22. *Lam.* 464.

Felling oaks meet to be barked where bark is worth 2 ſhillings a load, above the charges of barking and pilling, (timber for neceſſary buildings, and reparations of ſhips, houſes, or mills excepted) but between the firſt of April and the laſt of June, loſeth every tree or double the value. 1 *Jac. c.* 22. *Lam.* 464, 465.

Currier that currieth any leather but in his own houſe ſituate in a corporate or market town, or hath curried any leather not well tanned, or not throughly dryed after his wet ſeaſon, or hath uſed in ſuch wet ſeaſon any deceitfull means to corrupt the ſame, or hath curried any outward ſole leather with any other ſtuff then hard tallow, or leſs of that then the leather will receive, or inner ſole leather, or upper leather but with good ſtuff being freſh and not ſalt,

or

or hath not liquored them thoroughly, or hath scalded or shaven too thin, or gasht in shaving or otherwise, or not wrought sufficiently any leather, loseth 6 shillings 8 pence, and the value of every skin marred, except gashing in shaving, and for such gashing double as much as the leather is impaired. 1 *Jac. c.* 22. *Lam.* 465.

Currier that during the time that he useth currying, useth the feat of a tanner, cordwainer, shoemaker, butcher, or other artificer using cutting of leather, loseth 6 shillings 8 pence each hide *ibid.*

Currier refusing to curry within 8 days in summer and 16 days in winter perfectly any leather brought by any cutter of leather, or his servant, bringing with him good stuff for perfect liquoring of the same, loseth 10 shillings for every hide.

Shoemaker that maketh any Boots, Shoes, Buskins, Startups, Slippers, or Pantofles, or any part of them of English leather wet curried, (other then Deer, Calves, or Goats skins dressed like Spanish leather) but of leather well tanned and curried, or well tanned onely, and well sewed with thred welt twisted, waxed, and rosined, with the stitches hard drawn with hand leathers, without mixing neat and Calves leather in the over leather thereof; or hath put into any Shoes, boots, &c. any leather made of sheep-skins, bull-hide, or horse-hide, or into the upper-leather of any shoes, slippers, or pantofles, or into the nether part of boots, (the inner part of the shoes onely excepted) any part of the womb, shank, neck, flank, pole, or cheek of any hide, or into the outer sole other then the best of the ox or steer hide; or into the inner sole other then the necks, womb, pole or cheek; or in tresels of the double soled shoes other then the flanks of any the said hides; or hath put to sale any yeer between the last of September and the twentieth of April any shoes, boots, &c. meet for any person above four years old, wherein hath been

any

any dry English leather, other then calves or goat skins dressed like Spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3 shillings 4 pence for every pair, and the just value. 1 *Jac.* c. 22. *Lam.* 465, 466.

Every lord of fair or market, that doth not appoint and swear yearly two or three honest and skilfull men to be searchers and sealers of leather there, and for honest and expert men to try the same leather, loseth 40 pound. *Lam.* 466. Such triers as do not their duties therein without delay, lose 5 pound for every default. *Lam.* 467.

Searcher or sealer so appointed, refusing with speed to seal good leather, or allowing insufficient leather, loseth 40 shillings; or receiving any bribe or exacting any undue fee for execution of his office, loseth for every offence 20 pound; or refusing to execute the said office being duely elected, loseth 10 pound. *Lam.* 467.

He that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registring the same and the price thereof, loseth the value of the leather. *Lam.* 469. 1 *Jac.* c. 22.

Leets.

Steward of a leet cannot grant surety of the Peace, unless it be by prescription; but he may commit him to ward that shal make an affray in his presence whilst he is in execution of his office, or binde him to the peace or his good behaviour. *Lam.* 14.

He may also take presentment of an offence against the Peace. *ibid.*

"In every leet or market, there ought to be a Pillory

" Pillory and Tumberell, and for want thereof the " Lord of the Leet or Market shall make a fine to " the King. *Dal.* 151. *Cro.* 149.

Lent, *vide* Fish days.

Liberties and Franchises.

" Liberties and Franchises be such which have re- " turn of Writs, and not such as are Counties of " themselves, as London, York, Norwich, &c. nor " towns which have by grant of the K. Just. P. so " that no other Just. do intermeddle. *Cro.* 8. *a.* nu. 30. " *Dal.* 23. 2 & 3 *P. & M. c.* 18.

Justice of Peace may execute his authority within any liberties, not being a county within it self, and it is good, but the liberty may have their remedy against him. *Lam.* 47, 48. *Dal.* 23. *Cro.* 8. *a.* [illegible] 30. 181. *b.* 189. *a.*

Libellers.

A man finding a Libell against a private man, must presently burn it, or deliver it to some Magistrate. *Dal.* 195.

If against a Magistrate or publick person, to deliver it to some Magistrate, that by examination the author may be found out. *Dal. ibid.*

Libellers (it seemeth) may be bound to their good behaviour as disturbers of the Peace, whether they be contrivers, procurers, or publishers of the libels; for such libelling and defamation tendeth to the raising of quarrels and effusion of blood, and speciall occasions to the breach of the peace. *Dal.* 194.

Libelling is by scandalous writings, by book, ballad, epigram, or rime; 2 by scandalous words, as scoffes,

scoffes, jests, taunts, or songs; 3 by hanging up pictures or signes of reproach, neer the place where the party traduced doth converse most, as gallows, cucking stool, pillory, horns, or such like. *Dal* 191. *Coke* 5 *fol*. 125.

Licenses.

Two Justices of the Peace may license poor diseased persons to travell to the Baths for remedy of their grief, so as they be provided of relief for their travell, and beg not. 39. *El. c.* 4. *Dal.* 101. *Lam.* 333. 1 *Jac. cap.* 25.

Justice of Peace dwelling neer where any person having suffered shipwrack shall land, may and ought to make a testimoniall under his hand to such persons of the landing, &c. and thereby to license them to pass the next direct way to their place of birth or dwelling, and limit them a convenient time for their passage. *Dal.* 100. 127. *Lam.* 303. 39 *El. c.* 4. 39 *El.* 17. 1 *Jac. c.* 25.

No Justice or Justices of Peace (as it seems) can in any case license any poor man to wander, or beg at all. *Dal.* 101, 127. *Lam.* 303. 39 *El.* 4. *c.* 17.

Convicted for abusing of a license of transportation of victuall, shall be committed for a year without bail or mainprise. *Lam.* 349. 1 & 2 *P. & M. c.* 5.

Licenses for badgers, drovers, &c. are to be granted in open Qu. Sessions by three Justices of Peace whereof one of the Qu. and shall not endure above a year, unless the same be yearly renewed. 5 & 6 *Ed.* 6. *c.* 14. 5 *El. c.* 12. *Lam.* 610. *Vide* Badgers.

Linnen cloth.

He that causeth to be used any racking, beating, or casting any deceitfull liquor, or other means on any kind

kind of linnen cloth, whereby it becometh deceitfull, or the worse for use, forfeiteth such cloth, and is to have imprisonment for a moneth at the least, and to be fined according to the Justices discretion. 1 *Eliz.* 12. *Cro.* 90. *a.*

Lying in a way, *vide* Way-lying.

Log-wood, *alias* Block-wood.

Suspected to have offended against the statute for log-wood, upon information to a Justice of Peace, the suspect or his servant or workman may be called by warrant, and examined by oath or otherwise, to disclose the offence; and the offence being discovered, the offender and the examinates shall be bound over to the next gaol-delivery or Qu. Sessions, and there be judged to forfeit 20 pounds, and pillory one or more market days, or upon refusall to be bound, to be committed to the gaol till he will be bound. 39 *El. c.* 11. *Law.* 513. *Dal.* 48.

Any two Justices of the Peace, where any log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned. 23 *El. c.* 9. *Dal.* 48. *Cro.* 198. *b.*

Long bows.

"Any above the age of 24 years shooting at "standing pricks under eleven score yards with any "prick shaft or flight loseth 6 shillings 8 pence. 33 H. 8. *c.* 9. *Law.* 481.

Masons

Masons.

THe causing of Masons to congregate themselves in chapters, is felony. *La.* 227. 3 *H.*6. *c.*1.

Mainprise *vide* Baylement.

Maintainers and Embracers.

Maintainers and embracers of a Jury enquiring of a riot, forfeit twenty pounds, and to be committed to prison, and to remain according to the discretion of the Justices. 19 *H.*7. *cap.*13.

The Justices which shall sit upon the inquisition of riots with the Sheriff or undersheriff, ought to certifie the names of the maintainers and embracers of a Jury, with their misdemeaners which they know, by which the truth of the said riot is not found, upon pain of 20 pound for every one that hath not a reasonable excuse. 19 *H.*7. *cap.* 13. *Cro.*199. *b.*

Maintainers of quarrels and embracers of Jurours are to be imprisoned, and bound to the good abearing. 33 *H.*8. *c.*10. 37 *H.*8. *c.*7. *Lam.*440.

Maintenance is where any man giveth or deliver-eth to another that is plaintiff or defendant in any action, any thing to maintain his plea, or else maketh extream labour for him where he hath nothing to do therewith. *Terms of the law.*

Embracer is he that when a matter is in tryall between party and party, cometh to the barr with one of the parties, having received some reward so to do, and speaketh in the case, privily laboureth the Jury, or standeth there to survey or overlook them, thereby to put them in fear and doubt of the matter: but

but men learned in the law may ſpeak in the caſe of their Clients. *Terms of the Law.*

Maim.

He that hath maimed another of any member, whereby he is leſs able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by ſome wound the ſinews be made ſhrink, or other member or the fingers made crooked, or if any eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans body, by means whereof he is made the leſs fit to defend himſelf, or offend his enemy, he and his acceſſaries ſhall be grievouſly fined. *Lam.* 429. *Terms of law.*

Juſtices of Peace cannot upon an endictment of maim, make the tryall by their own view and inſpection, as the J. of the Kings Bench may do. *Lam.* 532.

If Juſtices of Peace ſtand in doubt whether the hurt be a maim or not, they may uſe the help and opinion of ſome skilfull Chirurgeon to conſider thereof. *Terms of law.*

"Indictment of maim muſt be *felonicè mahemavit. Cro.* 101. *a.* nu. 3.

Malt.

If any Bailiff or Conſtable of any borough or other town ſhall finde any malt made contrary to the ſtatute, 2 & 3 *E.* 6. 16 & 27 *Eliz.* 14. then with the advice of any Juſtice of the Peace within the ſhire he ſhall cauſe the ſame to be ſold to ſuch perſons, and at ſuch reaſonable prices under the common price of the market, as to their diſcretion ſhall ſeem conve-

nient. *Lam.* 202. *Dal.* 86. 21 *Jac. c.* 28.

Any two Justices of the Peace may duly convict by two witnesses, or by the parties confession, any person that shall disobey the restraint of malting made in open Q. Sessions, and shall commit him to prison without bail or mainprise for three days, untill he become bound in forty pound to perform such restraint. 39 *El. c.* 16. *Lam.* 332. 202. *Dal.* 86.

The Justices of Peace or the greater part of them may in open Qu. Sessions restrain the converting of barley into malt. 39 *El. c.* 16. *Lam.* 613. *Dal* 86.

Malt must be 3 weeks in the fat, on the floor steeping and drying, except in June, July, August, and then 17 days, or lose 20 pence for every quarter. *Lam.* 451. *Dal.* 87.

No insufficient malt mingled with good malt must be put to sale. 2 & 3 *E.* 6. *c.* 16. & 27 *El. c.* 4. *Lam.* 452. *Dal.* 87.

No malt shall be put to sale, that is insufficiently trodden, and out of which for every quarter hath not been fanned one peck of dust. *ibid.*

Manslaughter, *vide* Homicide.

Mariner.

Mariner coming from beyond the seas, or a seafaring man having suffered shipwrack, and in want, may be licensed by the next Justice of Peace to his landing, to aske relief in his journey homewards. 39 *Elizab.* 4. *Lam.* 303. *Dal.* 127. 1 *Jac. cap.* 28.

No fisher man to be taken for a mariner by the Kings commission, unless chosen by the two next Justices to the place where he is to be taken. 5 *El.* 5. *Lam.* 359. *Dal.* 87.

Mariner departing from his Captain without license, or wandring idly without, or with a forged license, knowing thereof, is a felon. 39 *El.* 17 *Lam.* 217.

Any

Any poor Mariner or Souldier coming from beyond the seas, that shall repair to his place of birth, &c. and cannot there get work, two Justices of the Peace next adjoyning may take order to set him to work, and for want of work taxe the whole hundred for his relief, till sufficient work may be had. 39 *El. c.*17. *Lam.*359. *Dal.*138.

"Mariner forging a Testimoniall, or carrying "the same, knowing it to be forged, it is felony. *Lam.* "228. *Dal.*289. 39 *El. c.*4. & *c.*17. 1 *Jac. ca.*7.

"Mariner landing and not having a Testimoni- "all under the hand of some Justice of Peace, neer "the place of his landing, setting down, 1 the time & "place of his landing, 2 the place to which he should "pass, 3 and the time for his travell, 4 or exceeding "that time fourteen days, it is felony. 39 *El. cap.* "17. *Dal.*289. *Lam.*303. But if he have such a Testi- "moniall, and pursue the same, he may ask and "take such necessary relief as shall be given him. "39 *Eliz. cap.*17. *Lam.*303.

Vide Felony by Statute.

Market overt.

He that is owner, &c. of any fair or market where horses, geldings, mares, or foles are to be sold, and doth not yearly assign one open place where the said horses, &c. shall be sold and one to take Tol, who shall continue there from 10 in the morning untill sun set, forfeiteth 40 shillings for every day. 2 & 3 *P. & M. c.* 4. *Cro.*91. *a. Lam.*471

To alter the property of any strangers rights in horses and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kind. *Dal.*74.

Sale in fair or market doth not take away the

owners property, the buyer knowing that it was anothers. *Dal.* 74.

Vide Horses.

Marriage.

If any married person marrieth another, the former wife or husband being alive, except the husband or wife have been beyond the seas seven years together, or hath been absent within the Kings dominions 7 years together, the one not knowing the other to be alive, or was at such marriage lawfully divorced, or the former marriage by sentence ecclesiasticall declared to be void, or was had within years of consent, it is felony, 1 *Jac.* 11. *Lamb.* 421. *Dal.* 289. *Cro.* 52. *a.* without corruption of bloud, loss of dower, or disinheriting any heir.

All persons to be married must (21 days before their marriage) deliver to the Register of the Parish where they severally dwell, their names, sirnames, additions, and places of habitation and of their parents, guardians, and overseers; which the Register must publish three severall Sundays next insuing at the end of morning exercise in the Church, or if desired in the market place between 11 and 12 of the clock, whereupon the Register shall at their requests make a Certificate thereof, without which the marriage shall not be effectuall; and if any exception shall be put in against such marriag, the Register must insert it in the Certificate with the name and place of abode of the person excepting.

And the persons to be married must repair to some Justice of the Peace within the County or place where the publication was made, and produce such Certificate and proof of the parents, &c. consent of either party which shall be under 21 years: and if cause require examine upon oath the truth of the Certificate, and observance of the premisses, and of any

any exception as above ſaid, and (no cauſe appearing) to proceed to the marriage as the Act directeth.

The man to be married muſt take the woman by the hand, and diſtinctly pronounce theſe words.

I. A. B. Do here in the preſence of God the ſearcher of all hearts, take thee *C. D.* for my wedded wife; and do in the preſence of God, and before theſe witneſſes promiſe to be unto thee a faithfull, and loving husband.

And the woman taking the man by the hand ſhall plainly pronounce theſe words.

I. C. D. Do here, &c. promiſe to be unto thee a loving, faithfull, and obedient wife.

And thereupon the Juſtice may declare them husband and wife, and no other ſhall be accompted a marriage by the law of *England*, &c.

In all Pariſhes a Regiſter is to be made of marriages, births, and burialls, to be approved and ſworn by one Juſtice of ſuch Pariſh, or diviſion, for three years, or longer if he continue.

And the Juſtice is to give an exact Certificate of the marriage, teſtified alſo by two of the witneſſes then preſent.

If either of the parties be dumb, or have no hands, the ſaid words, and taking of hands, may be omitted.

The man married muſt be 16 years, or above, and the woman 14 or above.

If any by force, or fraud ſteal away any perſon, or cauſe, &c. under one and twenty to the intent to marry her, they forfeit all their eſtates reall, and perſonall, the one moity to the Common-Wealth, the other to the party taken away: and to be impriſoned during life, and every abetter therein for ſeven years; and ſuch marriage alſo is declared *Null*.

And if any being Truſtees for ſuch children as guardians, &c. ſhall abuſe their truſt, and conſent to the marriage of ſuch children without his or her

free consent, he shall forfeit double their portion, the one moity to the Common-Wealth the other to the party seduced or injured.

And the determination of all differences touching contracts or marriages, and all exceptions concerning the same, and the disposall of forfeitures within this Act, shall be in the power and determination of the Justices of the Peace in every County, City, or Town Corporate at the Qu. Sessions.

And all offences committed against this Act upon the sea shall be heard and ended in the City, County, or Town Corporate where the offender shall be taken. *Act* 24 *August.* 1653.

Mass.

To sing Mass, forfeiteth 200 marks and a yeers imprisonment. To hear it, forfeiteth 100 marks and like imprisonment. 23 *El. c.* 1. *Lam* 413.

For the discovery of any who hath been at Mass, *vide* Jesuites.

Masters, *vide* Servants and Labourers.

No may poles shall set be up, and if any be, they must be forthwith taken down by the Constables and Church-wardens of the place upon pain of five shillings a week till it be done.

One Justice upon view, confession of the party, or proof of one witness may grant a warrant under hand & seal to the Constables or Church-wardens of the place where the offence is done, to levy it of the parties goods by distress and sale, returning the over plus, and for want of distress to set him in the stocks three hours. *Ord.* 6 *April.* 1644.

Mea-

Measure, *vide* Weight.

If any sell meal in any shop within 20 miles of *London*, or in any other place, but in the publick market place used for that purpose, or sell meal in any quallity then it comes from the mill, as if they mix it, or use any bolting mill or other devise in the dressing or sifting of corn or grain, to the intent to sell the same in meal, or flower, forfeiture Treble value, and two moneths imprisonment. *Ord. 23. Octo. 1650.*

If any buy any wheat with intent to make it meal, flower, or otherwise, without license first obtained in open Sessions under the hands and seals of five Justices, forfeiteth as before. *ibid.*

Messages false.

Two Justices of Peace one being of the *Quorum*, may (as it seemeth) binde over to the next Qu. Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such, or bail them to the next Qu. Sessions. *Dal. 47. 33 H. 8. c. 1. Vide plus* Cozenage.

Milch Kine, *vide* Calves.

Minstrels, *vide* Rogues.

Misprision.

Misprision is properly, where one knoweth that another hath committed treason, or felony, but was not consenting thereto, and will not discover the offender to the King or his Councel, or to some magistrate, but conceals the offence. *Dal. 234. Stam. 37. T. of law, 131.*

A Chaplain fixed an old seal to a new patent of non-residency, it was holden misprision of Treason. *Term of law, ibid. Dal.229.*

Knowing money to be counterfeit and bringing it out of *Ireland* into *England* and uttering it in payment, is misprision of Treason. *Term of law, ibid. Cro.44.b.Stam.38.3 H.7,10.*

For misprision of felony he shall onely be fined. *Dal.234.Term of law, ibid. Cro.44. a.*

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgement. *Dal.231.*

To strike a Juror in presence of the Justice sitting in place of judgement. *Dal, ibid.*

To strike one in *Westminster* Hall, any of the Kings Courts sitting. *Dal. ibid.*

In all which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason. Dal.434.

A stranger rescuing one arrested by a Justice upon an affray sitting in place of Justice, whereby he escapeth, is misprision of Treason. *Dal.231.*

For offenders in high Treason, misprision of Treason, *Præmunire*, though Justices of Peace cannot meddle in every point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing material, and put it in writing under the hands of the informers, and commit the offenders to gaol, and binde over those which prove any thing material to appear before the Lords of the Councell, or elsewhere to give evidence upon reasonable warning,

and

and to certifie their doings to some of the Lords of the Councell or elsewhere. *Dal.* 235.

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to do any of them, and doth not within 20 days disclose it to some Justice of the Peace, or higher officer, it is misprision of Treason. 23 *El. c.* 1. *Lam.* 412.

Within 6 weeks after any Bull or other instrument of reconciliation hath been offered, not to reveal it to some of the privy Councell or Presidents of the North, or *Wales*, is misprision of Treason. 23 *El. cap.* 1. *Lam.* 413.

Misprision of Felony.

He that seeth one killed by another, or robbed, or any other felony commited, and is not of their confederacy, and doth not make resistance, or disturb the felon, or levy hue and cry, but conceal the same, it is misprision of felony, and fineable. 14 *H.* 7. *c.* 31. *Cro.* 44. *Dal.* 26.

A man foreknoweth of a felony to be done, and concealeth it, and it is effected; it is misprision of felony *quære Cro.* 41. *b.* nu. 5. *Dal.* 298.

"Every treason or felony doth include misprision, "so that where any hath committed treason or fe- "lony, the King may cause the offender to be in- "dicted and arraigned but of misprision. *Cro.* 44. b. "*Dal.* 234. *Stam.* 37. d.

Mitigation of fines and forfeitures, *vide Lam.* 57.

A Chaplain fixed an old seal to a new patent of non-residency, it was holden misprision of Treason. *Term of law, ibid. Dal.229.*

Knowing money to be counterfeit and bringing it out of *Ireland* into *England* and uttering it in payment, is misprision of Treason. *Term of law, ibid. Cro.44.b.Stam.38.3 H.7,10.*

For misprision of felony he shall onely be fined. *Dal.234.Term of law, ibid. Cro.44.a.*

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgement. *Dal.231.*

To strike a Juror in presence of the Justice sitting in place of judgement. *Dal, ibid.*

To strike one in *Westminster* Hall, any of the Kings Courts sitting. *Dal. ibid.*

In all which cases the offender shall lose his right hand, and shall have judgement as in misprision of Trea- *Dal.434.*

A stranger rescuing one arrested by a Justice upon an affray sitting in place of Justice, whereby he escapeth, is misprision of Treason. *Dal.231.*

For offenders in high Treason, misprision of Treason, *Præmunire*, though Justices of Peace cannot meddle in every point of the offence, yet upon complaint to a Justice of Peace, or other knowledge, he ought to cause the party to be apprehended, and joyning with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing material, and put it in writing under the hands of the informers, and commit the offenders to gaol, and binde over those which prove any thing material to appear before the Lords of the Councell, or elsewhere to give evidence upon reasonable warning,

and

and to certifie their doings to some of the Lords of the Councell or elsewhere. *Dal.*235.

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to do any of them, and doth not within 20 days disclose it to some Justice of the Peace, or higher officer, it is misprision of Treason. 23 *El. c.* 1. *Lam.*412.

Within 6 weeks after any Bull or other instrument of reconciliation hath been offered, not to reveal it to some of the privy Councell or Presidents of the North, or *wales*, is misprision of Treason. 23 *El. cap.* 1. *Lam.*413.

Misprision of Felony.

He that seeth one killed by another, or robbed, or any other felony commited, and is not of their confederacy, and doth not make resistance, or disturb the felon, or levy hue and cry, but conceal the same, it is misprision of felony, and fineable. 14 *H.*7. *c.*31. *Cro.*44. *Dal.*26.

A man foreknoweth of a felony to be done, and concealeth it, and it is effected; it is misprision of felony *quære Cro.*41. *b.nu.*5. *Dal.*298.

"Every treason or felony doth include misprision, "so that where any hath committed treason or fe- "lony, the King may cause the offender to be in- "dicted and arraigned but of misprision. *Cro.*44. b. "*Dal.*234. *Stam.*37. d.

Mitigation of fines and forfeitures, *vide Lam.* 57.

Mittimus.

Mittimus must contain the name of the parties, their offences, and time of imprisonment, that it may appear whether the Prisoner be bayleable or not, *Lam.* 297. *Cro.* 153. *a.* nu. 16. *Dal.* 315. 396.

If one be committed without bail or mainprise, and the cause is expressed in the *mittimus*, and yet is baylable, other Justices of the Peace may bail him: yet *Quære*, seeing their authority is equall. *Dal.* 319.

The form of the *Mittimus*.

To send felons to the Gaol. *Lam.* 220. *Dal.* 394.
To send rioters to the Gaol, *Lam.* 321.
To send shooters in peeces, *Lam.* 29. *Dal.* 398.
To send upon forcible entry, &c. *Lam.* 150.
To send to the house of Correction, *Dal.* 396.
To send an Ale-seller without licence, *Dal.* 387.
To send a reputed father of a bastard, *Dal.* 392.

Monasteries, *vide* Religious houses.

Mortuaries.

Spiritual person not to take mortuaries or any thing for them, where they have not been used to be payed, or where the goods of the dead are under 10 marks; taking above 3 shillings 4 pence where the goods are under 30 pound, or above 6 shillings 8 pence where they are above 30 pound and under 40 pound, or above 10 shillings where they are above 40 pound, he shall forfeit all taken above his due, and 40 shillings to the party grieved. 21 *H.* 8. *cap.* 6. *Lam.* 435 436.

Multi-

Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felony. 5 *H.*4.*c* 4 *Lam.*227.425.

Murder.

Murder is when one man upon malice pretended, prepensed, or precedent, doth kill another feloniously that liveth within the Realm, or under the protection of the King, whether it be openly or privately, and whether the party slain be English or alien. *Lam* 237. *Cro* 21.*a*.nu.1.*Dal.* 241.239.

The killing shall have relation to the death and not to the stroke. *Coke* 4. 42. *Cro.*21.*a*.nu.1.

Malice is { Expressed, or Imployed, } *Cro.* 21. *a. Dal.* 241. *Lam.*239.

Malice expressed is when it is known that there is malice betwixt them, *Cro.* 21.*a.* and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed. *Dal.* 241. *Lam.* 238.

Malice implyed is when one is killed suddenly without defence. *Dal.*241. *Cro.*21.*a*.nu.2.

As where one killeth another without provocation. *Lam.*239. *Dal.*241.

One busied, as reading, going over a stile, &c. killed. *Cro.*27.*a*.nu.20. *Dal.*241.

One stabbed, not having weapon drawn. 1 *Jac. cap.*8.

To kil an officer known, in executing process. *Dal Ibid.*

To kill an unknown officer if he shew his warrant, and if an officer hath the Kings writ or lawfull warrant, though it be erronious, and slain in executing it, is murder. *Lam.*240. *Dal*241.

To

To kill any magistrate or minister of Justice in executing his office, or in keeping the Peace. *Dal.* 242. *Cro.* 25. b. *nu* 51.

A rioter killeth an officer or an assistant coming to suppress a riot, it is murder in all the rioters. *Cro.* 23. *b. num.* 28. *Lam.* 241. *Dal* 242.

A Constable parting an affray, or any of his company coming to aid him, although it was suddenly and in the night. *Cro.* 25. *a.* nu. 51. *Dal* 241.

A theef killing a true man in resisting, is murder of malice prepensed. *Lam.* 241. *Dal.* 241. *Cro.* 22. *a.* nu. 13.

1 A man carryed his father into the frost, whereby he dyed. *Lam.* 240. *Dal* 242.

2 An harlot hid her child covered it with leaves, and a Kite struck it and killed it. *Dal.* 242. *Lam.* 240.

3 The owner knoweth his beast to be accustomed to hurt and doth not tye him up, and after the beast killed a man. *Lam.* 239. *Dal.* 242.

In these three cases voluntas reputabitur pro facto, *for it Shewth that they had a will to hurt, and the will doth amount to malice,* Dal. *ibid. and so to murder.*

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth "that other; it is murder, for he slew him in the "said malice wherein he did assault him. *Lam.* 239.

One condemned to die is killed by a private person without warrant, or by the officer contrary to the judgement; it is murder, *Lam.* 240.

Prisoner killed by his gaoler by over hard keeping it is murder. *Lam.* 240.

One commandeth his servant to beat a man, who beateth him so that he dieth thereof; it is murder in the commander. *Dal.* 245. murder in both, if it be in the commanders presence. *Lam.* 241.

Many come to do an unlawfull act, and one in doing thereof killeth a man; it is murder in all although

though they did but look on. *Dal.* 245. 253. *Cro.* 22. *a.* nu. 10. 24 *b.* nu. 43. *Lam.* 241. *Stam.* 40. If they be not present, yet if they be in the same house, or upon the same ground, it is murder in all. *Dal.* 245. *Cro.* 25. *a.* nu 5 *Lam.* 241.

All present and aiding, abetting or comforting another to do murder, are principals *Dal.* 245 *Lam.* 243 *Cro.* 22. *a.* nu. 15.

Two appoint the field and meet, and bring company with them, and one of them is slain; it is murder in all that came with the murderer, *Dal.* 245.

Murder is intended to one, and he killeth another, it is murder, *Lam.* 243. *Dal.* 244.

A. woundeth *B.* in fight, and after they meet suddenly and fight; if *B.* kill *A.* it is murder, for it is intended malice upon the former hurt; but if *A.* kill *B* it is but manslaughter, for the hurt did appease his former malice, *Lam.* 251. 238. *Dal.* 243.

Two in suit meet and quarrell, and the defendant killeth the plaintiff; *quære* if it be murder, *Dal.* 244.

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both, *Dal.* 244 *Lam.* 242.

The owner rebuked one stealing his pears, who killed the owner; it was adjudged murder, *Dal.* 245. *Lam.* 241. *Cro.* 24. *a.* nu. 34.

Poisoning of another wilfully whereby he dyeth, is and was murder by the common Law, *Dal.* 244.

The party poisoned must die within a yeer and a day after the receiving of the poison, *Dal.* 246.

After the beating or hurting another, to make murder or other homicide, the year and the day is reckoned from the stroke given, *Dal.* 246. *Cro.* 23. *b* nu. 54.

An appeal hath relation to the death, *ibid.*

A woman delivered of a bastard, endevouring privately either by drowning or by secret burying to conceal the death thereof, as that it may not come

to

to light, whether it were born alive or dead, but be concealed, shall suffer death as in case of murder, except she make proof by one witness that the child was born dead, 21 *Jac. cap.* 27.

Justices of Peace may take Endictments of murder as of murder, *Lam.* 493.

"A man hath a horse that will strike such as come "neer him, his master knowing it, rideth among "people, the horse killeth a man, it is felony in the "master, *Dal.* 241. *Lam.* 239. *Cro.* 24. *b.* nu. 45.

"Indictment of murder must expresly have *mur-* "*dravit*, for *ex malitia præcogitata*, *& volantate*, *&* "*felonicè interfecit*, is not sufficient. *Cro.* 101. *a.* nu. 4.

Musters.

Convicted before the Justices of Peace for offence against the statute of musters, shall be imprisoned 10 days without bail, unless he pay the forfeiture being 40 shillings which is for absence without reasonable excuse, or not shewing his best furniture being commanded. 4 *&* 5 *P. & M. c.* 3. *Lam.* 349 482.

The party that sueth upon the statute of musters, is to recover the forfeiture belonging unto him by action, or bill of debt. *ibid. Lam.* 583.

Name.

THe names and sirnames of the party indicted must be certainly expressed; and if the indictment be of an accessary in felony, the name of the principall must be set down also, *Lam.* 488. *vide* Additions.

Nets, *vide* Hunting, Partridges and Pheasants.

New

New Titles of Honor.

No person may after *March* 25. 1652. by writing or otherwise assume any Titles of dignity or Honor conferred upon them by the late King since the 4 of *Jan.* 1641. upon pain if it be of a Duke, Marques, Earl, Viscount, or Baron, of 100 li. forfeiture: And if of a Baronet, or Knight 40 li. And none may voluntarily and knowingly by writing or otherwise give to any such person the Titles under pain of 10 shillings.

One Justice of Peace upon confession, or oath of one witness may for the latter offence cause the 10 shillings forfeiture to be levyed by distress, and sale of goods, and for want thereof, the party offending to be put in the stocks for three hours: But for the former offence the party must be convicted in the Exchequer, or at the Sessions. *Act.* 4 *Feb.* 1651.

News.

Contriver, speaker, or teller of false or counterfeit news, whereof discord, &c. may arise betwixt the King and his nobles, or any other false news, lies, or other false things of Prelats, Dukes, Earls, and Barons, &c. whereof discord and slander may arise within the realm, shall be imprisoned till he find out the author; and if he cannot find him, shall be punished by the advice of the Councel. *West.* 13 *Ed.* 1. *c.* 33. 2 *R.* 2. *c.* 5. 12 *R.* 2. *c.* 11. 1 *&* 2 *P. & M. c.* 3. 326.

Next Justice.

Where the Stature of 13 *H.* 4. *c.* 7. willeth the Justice of Peace most nigh in every County, where such

ſuch riot or rout ſhall be, to do execution of the ſtatute under pain of 100 pound, if any other Juſtices, that be not next unto the place ſhall execute the ſtatute, it will excuſe the next, becauſe all have power alike, by the firſt part of the ſtat. *Lam.* 326, 327. *Dal.* 111 *P.R.* 30.

Night-walkers *vide* Watches.

Noble Perſonages.

A Noblemans promiſe to keep the Peace, hath been held ſufficient. *Dal.* 165. *Lam.* 81, 82.

A Juſtice of Peace may not grant warrant of the Peace againſt a Lord of the Parliament. *Dal.* 165.

Nor againſt a Dutcheſs, Counteſs, or Baroneſs; for they are Peers of the Realm, and ſhall be tryed by their Peers, and have the ſame priviledges that Dukes, Earls, and Barons have. *Dal.* 265.

Dutcheſs, Counteſs, or any Noble by birth, marrieth with a gentleman, ſhe loſeth not her name of "dignity: but if ſhe be made noble onely by mar-"riage, and her husband dying marry a Gentleman, "ſhe loſeth her dignity. *Cro.* 110. *a. Dal.* 166. *Vide* Clergy, that a Nobleman may have his Clergy for any felony, except wilfull murder and poyſoning.

"None are noble under the degree of a Baron. "*Lam.* 539.

Non ſanæ memoriæ.

There be 3 ſorts of perſons, *Non ſanæ memoriæ, & non compotes mentis. Dal.* 248.

1 A natural fool, who is ſo from his birth.

2 He that was once of ſound memory, and after by ſickneſs, hurt, or other accident or viſitation of God loſeth it.

3 A lunatick, *qui gaudet lucidis intervallis*, and ſome-

sometimes is of good understanding, and sometimes is not *compos mentis.*

Nusans.

Every man may in a peaceable manner assemble a meet company to do any lawfull thing, or to remove or cast down any common Nusans. *Dal.* 224. *Cro.*66.*a.*nu.64.

"One is Indicted of Nusance and acknowledg-"eth it, infinite distress shall go to the Sheriff to "remove it, and he shall not be received to his fine "till the Sheriff return that it is removed. *Cro.* "186.*a.*

Obedience to the King.

IF any practise to absolve, perswade, or withdraw any from their naturall obedience to the King, or (for that intent) from the religion now established here, to the Romish religion, or to move them to promise obedience to the See of Rome, or other estate, or if any have been willingly so absolved, or have promised such obedience, it is Treason. 23 *El. c.* 1. *Lam.*412. *Cro.*18.*a.*

Colore Officii.

When officers take any thing *Colore officii*, it is taken *in malam partem*, and is extortion, and the office is but a vail to cover the fault: but when it is *ratione* or *virtute officii*, then it is *in bonam partem.* *Cro.*57.*b.*nu.a.

Ordinary

Ordinary.

His Fees, *vide* Fees.

The Ordinary oweth not his attendance at the Sessions of the Peace, as he doth at the gaol-delivery. *Lam.* 395, 396.

" The Court may allow Clergy in strictness of " Law, though the Ordinary or his deputy be not " there. *Cro.* 118. *b.* nu 44 *Stam.* 133. *a.*

" A felon adjudged to be hanged in fayling to " read may in favour of life have the benefit of " Clergy at the gallows. By which it appeareth, that " the Ordinaries presence is not of necessity. But " this is intended, where the Felon is adjudged in " the Kings Bench, not at the Assises, for their " Commission endeth with their Sessions, but be- " fore Justices of Peace it seemeth he may have his " Clergy at the Gallows, for their Commission " continueth, and may allow Clergy without an Or- " dinary. *Cro.* 119. *a.* nu. 54. 56. *Stam.* 132. *b.* yea one " reprieved may pray his Clergy at the next Assises. " *Cro. ibid.* nu. 56. The Judges are Judges of the " Clerks reading, and not the Ordinary. For if the " Ordinary say that he readeth, and cannot, he shall " be hanged, and the Ordinary fined. *Cro.* 119. *a.* " nu. 49. *Vide plus* Clergy. Extortion.

Oath.

You shall swear that the surety of the Peace, which you require against *A. B.* is not of any malicious intent, for vexation, but for very fear, and for the needfull preservation of your body and goods in safety; so help you God. *Lam.* 83.

Oath of the Justices of the Peace, *vide Dal.* 13.

Oath of supremacy, *Dal.* 14.

" Oath

" Oath of Conſtables and Churchwardens is to " be inlarged. *vide* Tiplers.

Oath of Allegeance. *Dal.* 15. 3 *Jac. c.* 4 7 *Jac. c.* 6.

The *Cuſtos Rotulorum* or any two Juſtices of the Peace, one being of the Quorum, may take the oaths of Under-Sheriffs of their County, their Bailiffs, Deputies, Clerks, or under-officers, before they ſhall exerciſe their ſaid offices. *Dal.* 138. See 27 *El. c.* 12. the form of the oath.

Quære if Juſtices of the Peace may examine upon oath ſureties of their ſufficiency. *Dal.* 171. Juſtices of Peace in their Seſſions may do it. *Cro.* 194. 2. *Br.* impriſonment. 18.

Default of Underſheriffs, their Clerks, Bailiffs, &c. in not taking their oaths for execution of their office, is to be heard and determined at the Quarter Seſſions. 27 *Eliz. c.* 12. *Lam.* 615.

Underſheriffs, Bailiffs, &c. doing any thing contrary to their oaths, loſe to the party grieved treble damages. 27 *El. c.* 12. *Lam.* 433.

Where the refuſer of the oath of Allegeance ſhall incur a *Præmunire vide Præmunire.*

Refuſer of the oath of Allegeance is diſabled to execute any place of judicature or office, being no office of inheritance or miniſteriall function, or practiſe of the Law Civill or Common, or the ſcience of Phyſick, Surgery, or the art of Apothecary, or any liberall ſcience. 7 *Jac. c.* 6.

One Juſtice of Peace to whom complaint is made, may commit to the gaol without bail till the next Aſſiſes, gaol-delivery, or Quarter Seſſions, any above the age of 18 years (under a Baron or Baroneſs) which ſtand preſented, indicted, or convicted for not coming to Church, or not receiving the Communion, or which by the Miniſter, pety Conſtable, and Churchwarden, or any two of them, ſhall be complained of to any Juſtice of the Peace, and " by him ſuſpected, may by ſuch Juſtice be required

to

" to take the oath of allegeance, and may be com-
" mitted without bail till the next Assises, for refu-
" sing the oath of allegeance. 7 *Jac. c.* 6. *Lam.* 199.
" *Dal.* 82. 107.

Two Justices of the Peace, one being of the Quorum, may require any person of the age of 18 or above, under the degree of a Baron or Baroness, to take the oath of allegeance, and on refusall to commit him to the gaol without bail, till the next Assises or Quarter Sessions. 7 *Jac. c.* 6. *Lam.* 363.

Where the examination of a Justice of Peace is the conviction of the party, there it ought to be upon oath: but where it is but to inform the Jury upon the indictment, it needeth not. *Lam.* 536. *Dal.* 159. Though the statute doth not expresly say it shall be upon oath. *Dal ibid.*

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence. For.

If the examinate die before the tryall, the examination may be evidence; without oath many will speak coldly. It is the practise of the Courts in Westminster. *Dal.* 307. & 308. *Cro.* 194. *a.* nu. 5. *Lam.* 213, 214, 215. *Br.* Examination. 32.

The refusing the oath of allegeance required by two Justices of the Peace, and the taking of the same and oath of supremacy by a conformed Recusant returning into England, are to be certified at the next Quarter Sessions. 7 *Jac. c.* 6. *Lam.* 362, 363. 616.

The oath of allegeance being required at the quarter Sessions of such as formerly refused the same, and being there tendered and refused, the refusers (other then Noblemen and women) incur *Præmunire*, except women covert, who are to be sent to the gaol without bail. *Lam. ibid.*

Orch-

Orchyards and Gardens, *vide* Hedge-breakers.

Overseers of the Poor.

"Overseers for the poor for every Parish are to be "nominated yearly in Easter week, or within a "moneth after, by two Justices of Peace one being "of the Quorum, under their hands and seals, "dwelling in or neer the Parish. 43 *El. c.* 2. *Lam.* "360. *Dal.* 91.

"Overseers and Churchwardens with two such "Justices, may set to work, children of such as are "not able to keep them; and all marryed and un-"marryed which have not means to maintain them; "And may raise a weekly stock or otherwise by taxa-"tion of every inhabitant and dispose thereof. *ibid.*

"Overseers and Churchwardens (not letted by "sickness of other just excuse allowed by two such "Justices) shall meet monthly in the Church upon "Sunday after Evening Prayer, to consult about "ordering of the Poor, or forfeit 20 shillings a "piece. 43 *El. c.* 2.

"Any finding himself grieved with the taxation "made by Overseers, &c. or by the Justices, may "have remedy at the Quarter Sessions. 43 *El. c.* 2.

"Indisability of the Parish, the two Justices may "tax any other Parish within the hundred. If the "hundred be not sufficient, the greater part of the "Justices of Peace in other Sessions may rate other "Parishes. 43 *El. c.* 2.

"Overseers and Churchwardens either present or "subsequent may by warrant of two such Justices levy "all sums and arrerages of any refuser by distress and "sale of his goods. In default of distress, two such "Justices may commit him without bail till pay-"ment made. 43 *El. c.* 2.

"Over-

" Overſeers may be committed till they do ac-
" compt. 43 *El. c.* 2.

All to whom the overſeers by 43 *Eliz.* 2. may bind apprentices, may take and keep them as apprentices, and the overſeers may with the aſſent of two Juſtices of Peace, one being of the Quorum, in their reſpective limits where there be more then one, or by aſſent of one Juſtice of Peace where there be no more, ſet up, uſe and occupy any trade, myſtery, or occupation, onely for ſetting poor of the Pariſh on work wherein they are overſeers. 3 *Car. cap.* 4. *Vide* Poor.

Pannell *vide* Jurors.

Pardon.

AT the Common Law before the ſtatute of 13 *R.* 2. *ſtat.* 2. *c.* 1. a pardon of all felonies was good for murders, and ſo for petty treaſons. *Lam.* 561.

Pardon of all felonies is not good for murder or petty treaſon, except the pardon be with a *non obſtante*, or that murder be therein expreſly mentioned. *Dal.* 24. *Cro.* 21. *b.* nu. 7.

But it is good for acceſſaries, both before and after.

A pardon of all felonies will not diſcharge a man that is attainted of felony, except the execution and attainder be pardoned. *Cro.* 115. *a.* nu. 1. *Lam.* 562. *Dal.* 245.

Breaker of the Peace after the Pardon, forfeiteth the Pardon, and may be hanged notwithſtanding his pardon *Cro.* 115. *b.* nu. 16. *Dal* 247.

The King onely can pardon treaſon, murder, or other felony, or any acceſſary thereunto. *Dal.* 247.

Generall pardon is that which is given by act of Parliament to all men, of which the Court ought of

of duty to give allowance, though the party will not plead it nor accept the benefit thereof. *Lam.* 559, 560. *Cro.* 115. *b.* nu. 13.

Pardon of abjuration is not good without speciall words of abjuration. *Lam.* 562.

Quære if a generall pardon for pety treason avail him that is indicted of murder, without the word *proditorie*. *Lam.* 560.

A generall pardon (coming betwixt the stroke and the death) of all misdemeanours, will avail for the death. *Lam.* 560.

Quære if a pardon of all offences (except persons outlawed of murder) will avail one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry. *Lam.* 560. *Cro.* 116. *b.* nu. 17.

Pardon of attainder and execution for felony is not good for felony, without words to pardon the felony it self. *Lam.* 562.

Pardon of a Gaoler for escapes of felony and traitors, is not good for voluntary escapes. *Lam.* 562.

Pardon of two for all felonies done by them, or either of them, will not serve for offences done by one of them alone. *Lam.* 562.

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for pety treason, murder, nor of one attainted of felony. *Lam.* 561.

A speciall pardon ought to be pleaded under the great seal, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unless there be a dipensation by *non obstante*. *Lam.* 561.

Prisoner pleadeth a pardon, the Justice of Peace in absence of the Kings atturney may joyn issue that he is one of the persons excepted. *Lam.* 540. *Stam.* 103.

He

He that killeth another *se defendendo*, needs not sue to the King for a pardon. *Stam.* 15. *b. Lam.* 253.

He that killeth one by misadventure, shall have a pardon of course without suit. *Stam.* 16. *Stat.* of *Gl. c.* 9 in both cases the goods are forfeited.

The manner of suing a pardon of course is, If they desire to purchase their pardon, they must upon their tryall plead not guilty, and then the speciall matter being found by verdict, they shall be bayled; then they must sue forth a *Certiorari* to certifie the record to the Lord Chancellour, who shall make them a pardon of course under the great seal without suing to the King. *Stam.* 15. *Dal.* 250.

Park and Parker.

Hunters or killers of any Deer or Conies in the night or day time in any park or warren, or in any other inclosed grounds, and being thereof convicted, every such offender shall suffer three moneths imprisonment, and finde sufficient surety for the good behaviour for the space of seven years, or else continue in prison till he finde such sureties for the space of "seven years, and pay treble damages, or (if it be "for deer) 10 l. to the party grieved at his election. 5 *El. c.* 21. 7 *Jac. c.* 13. *Dal.* 326. *vide* Hunting.

Parson and Vicar, *vide* Ecclesiasticall causes.

Partridges and Pheasants.

Every Justice of peace may examine offences against the statute of 23 *Eliz. cap.* 10 for taking of "Partridges and Pheasants in the night, and binde "the offenders by recognisance with good surety to "appear at the next Quarter Sessions, &c. And af-

"ter

"after conviction and punishment take bond with "sureties that for two years after they shall not of- "fend against the said statute. *Dal.* 87. *Lam.* 200. "23 *El cap.* 10.

By 1 *Jac. cap.* 27. 1 He that shall shoot at, kill, or destroy with any gun, crossebow stonebow, or longbow, any partridge, pheasant, housedove, pigeon, heron, mallard, duck, teal, wigeon, growse, heathcock, moregame, or any such fowl, or hare. 2 Or shall take, kill or destroy any partridge, pheasant, housedove, or pigeon, with setting-dogs and nets, or with any manner of nets, snares, engines or instruments. 3 Or shall take or willingly destroy the eggs of any pheasant, partridge, or swan. 4 Or shall trace or course any hare in the snow, or shall take or destroy any hare with cords or such instruments. 5 Or shall keep any greyhound for deer or hare, or settingdogs or nets to take pheasants or partridges, not having lands of inheritance of 10 pound or 30 pound *per annum* for life, or in goods 200 pound, or be the son of a Knight, or son & heir apparent of an Esquire, any of the said offences being proved by the parties confession, or oath of two witnesses before any two Justices of P. of the County where the offence shall be committed, or the party apprehended, shall be imprisoned for 3 months without bail, unless he forthwith upon his conviction pay to the use of the poor there 20 shillings for every hare, fowl, and egge, and 40 shillings for having every such greyhound, setting-dog, or nets, or after three moneths imprisonment be bound with two sureties not to offend in any the said particulars, which recognisances taken by two Justices of the Peace, must be returned at the Quarter Sessions. 1 *Jac. c.* 27. *Dal.* 89. *Lam.* 335.

By 7 *Jac. c.* 11. proof of one witness is sufficient for the taking of partridges and pheasants, with setting-dogs and nets, or other net, snares, or engines, &c. the punishment as 1 *Jac. c.* 27. *Lam.* 334.

Killer of partridges or pheſants with hawks or dogs, by colour of hawking between the firſt of July and the laſt of Auguſt, upon conviction within ſix moneths after the offence by the confeſſion of the party or oath of two witneſſes before two Juſtices of peace, is to be impriſoned one moneth without bail; unleſs he pay preſently to the Churchwardens and Overſeers of the poor where he offended or was taken, 40 ſhillings for hawking, and 20 ſhillings for every partridge or pheaſant taken. 7. *Jac. ca.* 11. *Lam.* 335. *Dal.* 88.

Taking of pheaſants or partridges upon another mans ground by nets or otherwiſe, except unwillingly by lowbell or trammell, and there to let them go again, loſeth 20 ſhillings a pheaſant, and 10 ſhillings a partridge. 11 *H.* 7. *c.* 17. & 23 *El. c.* 10. *Lam.* 447.

Hawking in corn before it be cropped, without conſent of the owner, loſeth 40 ſhillings. *ibid.*

Taker, killer, or deſtroyer, by guns, bows, ſetting-dogs, nets, or other engines, of any partridge or pheaſant, except the owner of a warren, Lord of a Manour, or having lands of inheritance in his own or his wives right of the clear yearly value of 40 pound, or for life of 80 pound, or goods worth 400 pound, and their houſhold-ſervants authorized by them within their own grounds in the day time onely betwixt Michaelmas and Chriſtmas, upon conviction within ſix weeks after the offence committed, by confeſſion or oath of two witneſſes before two Juſtices of Peace next the place of offence or apprehenſion, to be impriſoned 3 moneths without bail, unleſs he pay immediately unto the Churchwardens and Overſeers of the poor of one of the ſaid places, 20 ſhillings and be bound to the King by recogniſance in 20 pound never to offend again: the ſame to be certified at the next generall Quarter Seſſions. 7 *Jac. cap.* 11.

Buyer or ſeller of hare, deer, partridge, or pheaſant (except partridges or pheſants bred up or brought up

up from beyond the seas) loseth for every deer 40 shillings, pheasant 20 shillings, hare or partridge 10 shillings, one moity to the informer, the other to the poor of the Parish. 1 *Jac.c.*27.

Constables by warrant from two Justices of the Peace may search the houses of any not allowed, suspected to have any setting-dogs or nets for partridges, and finding them, may take, carry away, detain, kill, or cut in pieces any of them. 7 *Jac. cap.*11.

Offences against the statute of 1 *Jac.c.*27. punished by it, are not to be punished by any former, & are to be heard and determined by Judges of Assises in their Circuit, Justice of Peace at Qu. Sessions, or two Justices of the Peace out of the Sessions. 1 *Jac.*27.

"Who may take partridges and pheasants in their "own ground, and when. *Vide* 7 *Jac. cap.*11.

Peace.

Every private person that shall be present at any affray, assault, or battery, ought to part them that fight: and if he take hurt, he shall have his action; but if they resist him, he may not hurt them. *Lam.*131. *Dal.*33.

Every man may stay the affrayers, till their heat be cooled, and then they may deliver them to the Constable to imprison them till they finde sureties of the Peace; but they may not imprison them unless the one of them be in perill of death by some hurt, for then any man may carry the other to the gaol till it be known whether the other will live or die. *Lam.* 131. *Dal.*33. *Br. Cro.*225.

He which hath mortally hurt another, flyeth into anothers house, any man that pursueth him with hue and cry, may break open the house, enter, and take him. *Dalt.* saith the Constable may. *Lam.* 131, 132. *Dal.*34.

"If an affray, forcible entry, or any thing in "disturbance of the peace be done in the presence "of a Justice of Peace, he may record it, and cer- "tifie the same, and commit the parties presently. "*Dal.*89. *vide* Affray.

"If the Justice of Peace certifie into the Kings "Bench that I. S. hath broken the peace, upon "that Certificate I. S. shall be there fined, without "allowing him any traverse. *Dal.*89

Peers, *vide* Noble Personages.

Pedlers, *vide* Rogues.

Perjury.

Procuring any unlawfully to commit wilfull perjury in any case depending in Court of Record, Leet, Court Baron, Hundred Court or ancient demesne, or hath corruptly suborned any witness sworn to testifie *in perpetuam rei memoriam*, or if any have upon such procurement or by his own act wilfully committed such perjury, the procurer shall forfeit 40 pound; and if not worth so much, half a years imprisonment without bail, stand upon the pillory for one hour, and disabled for a witness for ever after. 5 *El. cap.* 9. & 14 *El. cap.* 11.

The perjured 20 pound and six moneths imprisonment, and ever disabled for a witness; and if not worth 20 pound, to have his ears nailed to the pillory. 5 *El. c.* 9. & 14 *El. c.* 11. & 1 *Jac. c.* 25. *Lam* 416. *Cro.* 18. *a. b.* This offence to be heard and determined in the Quarter Sessions *Lam.* 609.

Execution of the forfeiture upon the statute of perjury, to be awarded by the Justice of the Peace beforewhom the conviction was. *Lam.* 685.

Committing of perjury upon answer to a bill of Com-

complaint is not within the ſtatute of 5 *Eliz.* but for a falſe depoſition upon examination upon interrogatories. *Crom.* 18. *b.* nu. 3.

If any give falſe evidence upon a bill of endictment at the Seſſions, it is held he ſhall not be puniſhed by the ſtatute of 5 *Eliz.* for that the King is not named in the ſaid ſtatute. *Cro.* 18. *b.* nu. 5.

"If an officer take other fees then are allowed "and incident to his office, he committeth perjury. "*Dro.* 57. *b.* nu. 7.

"A man is attainted of perjury, the King par- "dons and reſtores him, *Quære* if his teſtimony "ſhall be allowed againſt a priſoner, for *Once for-* "*ſworn, ever forlorn*, *Cro.* 100. *b.* *Dal.* 305.

Petie-treaſon.

The wilfull killing or joyning in killing of the husband by the wife, the maſter or miſtreſs by the ſervant, the Ordinary by his clerk, is pety treaſon. 25 *E.* 3. *c.* 2. *Lam.* 245, 246. *Dal.* 236. *Cro.* 19. *b.* nu. 1.

The child malicioufly killeth the father or mother, it is pety treaſon, though the father or mother at the ſame time give neither meat drink, nor wages to the ſaid child; but it is pety treaſon in the ſaid child, in reſpect of the duty of nature violated. *Dal.* 233. *Cro.* 19. *b.* But *Lam.* ſaith it is not treaſon in the child, if the father give it not meat nor drink, as to a ſervant, *Lam.* 245. and do their buſineſs, for it is as a ſervant. 21 *E.* 3. 17. meere formelſtre by *Lam.* opinion.

The ſon or daughter in law kill the father or mother in law with whom they dwell, and do ſervice, and have meat and drink; it is pety treaſon, though ſuch child take no wages; but the indictment ſhall be by the name of ſervant. *Dal.* 237.

Judgement in pety treaſon is, a man is to be drawn and hanged; if a woman, both in high treaſon and

pety treason to be drawn and burned. *Lam.* 570. *Dal* 237.

The forfeiture for pety treason is, the King shall have all his goods, and for his lands *Annum, diem, & vastum*, and the escheat thereof shall be to every lord of his proper fee. *Dal.* 238.

No clergy is allowed in case of pety treason. *Dal.* 237.

Pewter, *vde* Brass.

Physician.

One neither Physician or Chirurgeon taketh upon him to cure a sick and wounded man, who dieth under his hand, it was felony untill. 34 *H.* 8. *c.* 8. *Lam.* 240. *Dal.* 243.

But if a smith or other having skill onely in curing and dressing diseases of horses, or other cattel, shall take upon him cutting, or letting blood, or such like cure of a man, who dieth thereof, it seemeth to be felony. *Dal.* 243.

Pictures brought from Rome, *vide Agnus Dei.*

Playes and Players, *vide* Unlawfull games, *vide* Rogues.

Plagues.

Head-officers and Justices of Peace in a corporation, or in a priviledged place, or two of them, may set a weekly tax on the inhabitants of the corporation, for priviledged place, or liberties thereof, for the reasonable relief of persons infected, or dwelling in houses

houſes infected within the ſaid corporation or priviledged place. 1 *Jac. cap.* 31. *Lam.* 337.

Coporation or priviledged place not being able to relieve the perſons infected therein, upon certificate of the head-officer or Juſtices of Peace, or two of them to the two next Juſtices of Peace, the ſaid Juſtices may aſſeſſe and tax the inhabitants of the county within five miles of the corporation at a weekly tax for the relief of them. 1 *Jac. c.* 31. *Lam.* 337.

There being no Juſtice of Peace in the corporation, or the infection being in a hamlet, the two next Juſtices of the county may aſſeſſe the inhabitants of the county within 5 miles of the place infected, for the reaſonable relief thereof. 1 *Jac. cap.* 31. *Lam.* 338.

The taxes upon refuſall to be raiſed by warrant of the headofficers or Juſtices upon the goods of the refuſer, or upon default of goods returned, the party by another warrant to be impriſoned, till he make payment thereof with the arrerages. 1 *Jac. cap.* 31.

Taxes made for the relief of places infected, are to be certified at the next Quarter Seſſions, and there to be continued, and enlarged, or extended to other parts of the County, or determined by the greater part of the Juſtices. 1 *Jac. cap.* 31. *Lam.* 609.

Taxes levied of the County for the relief of an infected corporation, are to be diſpoſed by the headofficer and Juſtices of the corporation, or two of them; and if there be no Juſtice, then by the Juſtices aſſeſſors. 1 *Jac. cap.* 31.

Officers negligent in levying of the taxes, loſe 10 ſhillings to be imployed as the taxes. 1 *Jac. c.* 31.

Watchmen not to be impeached for hurting thoſe infectious perſons that being commanded to keep in, will in offering to come forth reſiſt the watchmen. 1 *Jac. c.* 31.

Any infectious perſon commanded to keep in,

goeth abroad and keepeth company, having an infectious sore uncured, is felony without corruption of bloud or forfeiture of goods; if without sore, to be punished as a vagabond by 39 *El.* and bound to his good behaviour for a yeer. 1 *Jac.c.*31.

Officers of a corporation and Justice of the Peace in the county, may respectively appoint, swear, and direct searchers, watchers, and buryers of infected persons and places. 1 *Jac.c.* 31. *Lam.*197.

"One Justice of Peace may command persons "dwelling in infected houses to keep in and, if they "go abroad, violently enforce them. 1 *Jac.c.*31. "*Lam.*197. *Cro.*122. *b.*RU.39. *Dal*,90.

Plaints in Court.

One Justice of Peace may upon complaint examine the Sheriff or UnderSheriff and plaintiff concerning the taking and entring of plaints in their County Court and books against the statute, or any Bayliff of the hundred for not warning the defendant in such a plaint according to his precept from the Sheriff or UnderSheriff, and if he thereby finde them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination, and these examinations the Justice must certifie into the Exchequer within a quarter of a year, on pain of forfeiture of 40 shillings for every default. 11. *H.*7.15. *Lam.*201. *Dalt*,137.

Sheriff entring plaints in any mans name that is not present in Court, nor hath any sufficient atturney or deputy, loseth 40 shillings. *Lam.*431.

So if he enter more plaints then the plaintiff supposeth he hath cause of action for. 11. *H.*7. *cap.*15. *Lam.*431.

Pond

Pond and Pond-heads. *vide* Fiſh.

Poyſoning, *vide* Murder.

Pope.

To extoll the power of the Pope by writing, cyphering, printing, preaching, or any ſpeech, open deed or act advisedly holden or ſtood with to extoll or defend the power of the Biſhop of Rome, or of his See heretofore claimed and uſurped within this Realm, or to abbet, procure, counſell, aid, or comfort ſuch, is treaſon, for the ſecond offence; for the firſt offence, *Præmunire. Dal.* 231. *Lam.* 411. 5. *El. cap.* 1.

Preſentment at the Quarter Seſſions for extolling the power of the Pope of Rome, muſt be certified by the Juſtices of the Peace before whom it was taken into the Kings Bench, within 40 days after, if the term open; if not, then the firſt day of the next term, or every Juſtice loſe 100 pound. 5 *El. c.* 1.

Popiſh books.

Printer, buyer, ſeller, or bringer from beyond the ſea of any Popiſh Primer, Lady Pſalters, &c. in any language, or other ſuperſtitious books in Engliſh, loſeth 40 ſhillings a book, where of one part to the King, another to the informer, a third to the poor of the Pariſh where the book ſhall be found. 3 *Jac. cap.* 5.

Two Juſtices of the Peace may ſearch the houſe or lodging of a Popiſh Recuſant, or whoſe wife is ſuch, for Popiſh books and reliques, and finding any unmeet for them to uſe, muſt deface and burn them, or

being of value deface them and restore them to the owner. *3 Jac. cap. 5.*

Poor people.

Traveller with wife and children not being a rogue, dyeth or runneth away, the Town where that happeneth is not bound to keep them, where they die, nor send them away, but onely in charity, except they become wandring rogues. *Lam. 208. Resol. 7.*

Parents able to work are to finde their children by their labour, and not the Parish. *Resol. 8.*

None is to be removed out of the Town where he dwelleth, or sent to the place of birth or last habitation, but a vagrant, nor found by the Town except he be impotent. *Resol. 9.*

Persons destitute of houses by expiration of term, or servants out of service, must provide houses for themselves and services. *Resol. 9. Dal. 99.*

Able bodies yet idle refusing to work, and no wanderers, are not to be sent to the place of birth or last habitation, but to the house of correction, *Res.* 10 by such a Justice of Peace as may appoint overseers for the poor. *43. El. c. 2. Lam. 209, & 295. Dal. 99.*

Able bodies, yet idle and refusing to work, having any lawfull means to live by, are not to be sent to the house of correction. *Res.* 10. *Lam. ibid. Dal. 97.*

It is finable to remove or put any out of the Parish, who are not to be put out, and such may be sent back. *Resol. 11. Dal. 98.*

None may take relief at any mans door in the Parish, but by the appointment of the overseers, nor beg in the highways in their parish *Res.* 15.

Parsons, vicars, farmers, or owners of impropriations, colemines, or saleable woods, are to be charged with the relief of the poor. *Res.* 18. 19.

Tenants in ancient demesne must contribute for the

the relief of maimed ſouldiers, the Gaol, &c. as well as the Guildable. *Reſ.* 14.

The land within each pariſh is to be taxed in the firſt place equally, but there may be an addition for the viſible ability of the pariſhioners within that pariſh according to diſcretion, wherein if any miſtake be the Seſſions, &c. or the Juſtice muſt judge between them. *Reſol.* 18.

Children born in common gaols, or houſes of correction, their parents being priſoners, muſt be maintained at the Counties charge. *Reſol.* 32.

A travelling woman having a ſucking child, is executed for felony, the child, muſt be ſent to the place of its birth, if known, otherwiſe to the Town, where ſhe was apprehended: Sir *N. Hide* at *Cambridge.* 3. *Carol.*

There is no neceſſity of giving money with apprentices, but it may be done, and if the party, the Churchwardens, ond Overſeers cannot agree therein, the next Juſtices, at the Seſſions muſt determine the matter. *Reſol.* 2.

The law unſettles none who are lawfully ſetled, nor permits it to be done by compulſion, or practice, a ſetlement for a moneth without a juſt complaint made to remove him, or her, is held to be a ſettlement. *Reſol.* 26.

The making of a deputy by a Conſtable is rather by toleration, then by law. *Reſol.* 29.

Strangers brought into the Pariſh apparently like to be chargeable, the bringer in to be taxed according to the damage or danger which may enſue. *Reſol. Dalton* the laſt. 113, 114, 115 &c.

Biſhop and his Chancellour and three Juſtices of Peace have power to examine how money for relief of the poor appointed by the ſtatute is beſtowed, and to call to account the detainers thereof. 14 *Eliz. c.* 5 & 39 *Eliz. c.* 18. *Lam.* 366.

Juſtice of Peace proved before the Judge of Aſſiſe

by

by two witneſſes to be in default about the execution of the ſtatute for the poor, loſeth 5 pound. 14 *El. c.* 5. *Lam.* 372.

Parents at the Quarter Seſſions appointed to keep their children, or children their parents, and have not relieved them at their own charges, loſe 20 ſhillings a moneth. *Lam.* 445. 39 *El. c.* 3, 4.

In diſability of the pariſh or hundred to relieve their poor, the greater part of the Juſtices at the Quarter Seſſions may rate any other pariſh or hundred thereto. 39 *El. c.* 3. & 43 *El. c.* 2. *Lam.* 611.

Beggers children at the Quarter Seſſions may be bound to ſerve any ſubject in an honeſt calling. 14 *El. c.* 5. & 18 *El. c.* 3. *Lam.* 614.

Performance, or not performance of ſo much of the ſtatute of 14 *El. c.* 5. for the poor as is not altered by 39 *Eliz. c.* 3. or 43 *El. c.* 2. 1 *Jac. c.* 25. is to be yearly examined at Eaſter Seſſions. *Lam.* 620.

Overplus of the ſtock for maimed ſouldiers is to be imployed by the greater part of the Juſtices at the Quarter Seſſions to ſuch charitable uſes as are ſet down in the ſtatute for the poor except by them it be reſerved for future penſions. 43 *El. c.* 3.

Young children, the parents being dead, are to be ſet on work and relieved by the Town where they dwelled at the death of their parents, and not ſent to the place of their birth. *Dal* 96.

The Juſtices may compell ſuch as be of ability, to take poor children apprentices, and may binde, ſuch maſters refuſing, over to the next gaol-delivery: ſo ſaid Sir *Henry Mountague* at Cambridge Aſſiſes 1618. and the ſtatute of 43 *El. c.* 2. ſeemeth to warrant as much, the words whereof are to this effect.

It ſhall be lawfull for the Churchwardens and Overſeers, or the greater part of them, by the aſſent of two Juſt. of the Peace to binde any ſuch children to be apprentices where they ſhall ſee convenient cauſe, *Dal.* 93. *or the Churchwardens or Overſeers, with the aſſent of two ſuch*

such Iustices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusall to levy it upon the Iustice of Peace his warrant by distress and sale of the offenders goods. Dal. 93.

If the Parents, without good cause shewed, refuse to suffer their children to be apprentices, the Justices may binde them over to answer their contempt; if the childe refuse, send him to the house of correction, *quousque, &c. Dal. 93.*

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice *Dal. 96.*

Two Justices of Peace, one being of the Quorum, may send to the house of correction or gaol, such as imploy not themselves in work being appointed. 43. *El. cap. 2.*

Possession actuall and in Law.

If after the death of *A.* another man abateth or entreth into his house forcibly before the heir of *A.* hath gotten any actuall possession indeed, the heir of *A.* shall have no restitution, because he had a possession in law onely. *Lam. 153. Dal. 217.*

Power of the County.

Information of a riot is a sufficient cause to raise the power of the county, though indeed there were none. *Lam.* 315, *Dal.* 114. *Cro. 62. b.* nu. 22. & 64. *b.* nu. 49.

Power of the county is raised without knowledge or information of a riot; if when they come they finde one, it is lawfull, and they may proceed to punish it. *Lam. 316. Dal. 114. Cro. 62. b.* nu. 20.

Power of the county in suppressing a riot, *vide* Riot

The

The Justices of Peace, Sheriff, or Undersheriff, in levying power of the County, may have the aid of all the Knights, and other temporall men under that degree that are above the age of 15 and able to travell, upon pain of imprisonment, fine, and ransom to the King. *Dal.* 113. *Lam.* 315. *Cro.* 157. *b.* But it is referred to the discretion of the Justices how many or how few they will have, and in what sort they shall be armed *Dal.* 113. *Lam.* 315. *Cro* 64 *b.* nu. 49.

One Justice of Peace may take power of the county, to suppress rioters, and need not tarry till his fellows come. *Cro.* 157 *b.* *Dal.* 110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray. *Cro.* 158 *a.* *Lam.* 134.

Sheriff upon a Writ of execution returned that he could not execute it for resistance, and was amerced 20 marks, because he took not the power of the county. *Cro.* 158 *a.* *Lam.* 157. *Dal.* 216.

Preacher.

He that disturbeth a Preacher of purpose maliciously or contemptuously in Sermon time, is to be bound to his good behaviour, & have three moneths imprisonment. *Lam.* 416. 1 *M. c.* 3.

If the disturber of any Preacher be arrested and brought before any Justice of Peace, upon due accusation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within six days after another Justice joyning in examination, they upon confession of the party, or conviction of two witnesses, may commit him to prison for three moneths. *Lam.* 195. 333. 1 *Mar. c.* 3.

Quere if all the statute of 1 *Mar.* 3 be not repealed by the generall words at the latter end of the statute. 1 *Eliz. c.* 2. *Dalt.* 103, 104. Sir *Nich. Hides* opinion cited

cited that it was wholly repealed at Bury, lent Assises. 1629.

Precept, *vide* Warrant.

Præmunire.

Refusall to take the oath of the Kings supremacy, the first offence is *Præmunire*, the second treason. 5 *El.c.*1 *Lam.*411.23 *El.c.*1.

To aid, comfort, or maintain one that hath committed treason in using of bulls, is *Præmunire.* 23.*El.c.*1.*Lam.*413. *Vide* Treason.

To hold, set forth, or defend the power spirituall of any forrein Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expres deed or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *Præmunire*, the second treason. *El.c.* 1. *&* 5 *El.c.* 1. enquirable by words of. 23 *El.c.*1.*&* *Lam.*411.

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authority of the See of Rome, incurreth *præmunire.*13 *El.c.*2.*&* 23 *El.c.*1.*Lam.*413.

To bring from the Bishop or See of Rome, or any claiming authority from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver, or offer them, or cause to be delivered or offered to any of the Kings subjects to use or wear in any wise, or receive them to such intent, and not to apprehend the offender, or within three days disclose him to the Ordinary or other Justice of Peace, or within one day deliver the things received to a Justice of Peace. 13 *El.c.*2 *&* 23 *El.c.*1.*Lam.*414.

The forfeiture in cases of *Præmunire* upon the

ſtatute of 16 R. 2. is to forfeit his lands and tenements in fee for ever, his lands in taile for his life, and all his goods and chattels, and to have a perpetuall impriſonment, and to be out of the Kings protection. *Cro.14.a. Dal.* 234, 235. but *quære* if he be attainted upon 27. of *E.* 3. 1. if he appear at the day of the *Præmunire* returned. *Dal. ibid. Br. Præmunire* 6. *Coke* 11.34. *inſtit.*129. & 130. at large.

A man may not kill him which is attainted in the *Præmunire* by 5 *El.c.* 1. but before he might, for they were out of the Kings protection. *Cro.*15.*a.b.*

One lawfully impriſoned untill the next Seſſions for refuſing the oath of allegeance, and there again refuſing it, incurs a *præmunire*, except married women, who are onely to be impriſoned without bail. 3 *Jac.c.*4. & 7 *Jac.*6.

Juſt. of P. not diſcloſing nor certifying within 14 days the name of him which bringeth any *Agnus Dei*, croſſes or pictures, to one of the Kings Councel, 13 *El.c.*2. is *præmunire. Lam.*195.372.

Brokers of bargaines contrary to the ſtatute of 37 *H.*8.*c.*9. provided againſt uſury, ſhall be puniſhed as Counſellors, Atturneys or Advocates in caſe of *præmunire* 39 *El.c.*18. 13 *El.c.*8.

Delivering or ſending any relief to a Jeſuite, Prieſt, or other remaining in any Colledge of Jeſuites, incurreth *præmunire*, 27. *Eliz.cap.*2.

Preſentment.

Preſentment is a declaration of the Jurors or Officers without any bill offered before. *Lam.* 485.

It differeth from an indictment, which is the verdict of the Jurors that be charged to enquire of that offence which is offered. *Lam.* 486.

VVhat

What shall be a good presentment.

Presentment at a Sessions where the style is in the name of three, and the presentment taken by two. *Lam.* 383.

Presentment where some of the Jurors be allyed or of blood to him that procureth the indictment; but it is no discretion in the Justices to suffer such to be impanelled. *Lam.* 398.

Presentment of a Jury of an hundred, of an offence done in another hundred. *Lam.* 399.

"Constable presents a fault at the Sessions which "belongeth to his office, which is allowed by the "Enquest, it is good: otherwise it shall not serve "for an Endictment. *Cro.* 125. *b.*

"Constables, Churchwardens, aleconners, sidesmen, may present all offences contrary to 4 *Jac.* "*cap.* 5.

"Presentment where all were not sworn, if the Record be that all were sworn, *Lam.* 399.

Where the declaration of the Officers of the Sessions shall have the force of a Presentment.

A Justice of Peace upon his own knowledge of offences against the statute of 2. & 3 *P. & M. c.* 8. & 5 *El. c.* 13. of highways. *Dal.* 67. *Cro.* 125. *b.* 195. *a.* nu 5.

Searchers appointed to examine the true making of tile. 17 *Ed.* 4. *c.* 1. *Lam.* 508.

Constable for sundry points in the statute of Winchester. 13 *Ed.* 1. *Lam. ibid.*

Amendment of a presentment, *vide Venire facias.*

Priests

Prieſts, *vide* Jeſuites.

Principall and Acceſſary, *vide* Acceſſary.

Priſon.

" Impriſonment, is the putting of a perſon from " his liberty unto the cuſtody of the Law, to anſwer " to that which ſhall be objected. *Lam.* 218. *Dal.* " 343.

" A man is in priſon ſo long as he is in ſight of " his Gaoler, though he break away. *Dal.*276.

" No man ſhall commit another to priſon, except " he be a Judge of Record. *Dal.* 344.

" Conſtable, impriſoning a ſuſpect for felony, " may lock the ſtocks, and put irons on him: And " in conveying him to the Juſtice, or gaol, may " pinion him, or otherwiſe make him ſure that he " cannot eſcape. *Dal.*350.

One committed to priſon for refuſing to finde ſureties for the Peace, ſhall remain there till he freely offer and find them. *Lam.*93. *Dal.*171.

One committed for denying to finde ſureties for the Peace, may not be delivered upon the death or releaſe of the party, without help of the Seſſions or gaol-delivery. *Lam*93. *Quære.*

One was impriſoned till he make fine for that he ſtood by whileſt one was ſlain, becauſe he did not his beſt to attach the murderer. *Lam.*132.

The Sheriff or Gaoler may impriſon in his houſe or in the common gaol at pleaſure. *Dal.* 347. *Quare Cro.*169.*b. Lam.*133.

Conſtable cannot impriſon in his houſe but in the ſtocks, and that but untill he may provide convenient aid to convey him to the Juſtice of Peace or to the Gaol. *Dal.*348. *Lam.*133.

Juſtice

Juſtice of Peace cannot commit felons to priſons which be not common gaols, nor make a gaol of their own houſes. *Lam.* 133.5 *H.4.c.* 10. *Coke* 9.119 *b.* 23 *H.8.c.* 2. *Dal.* 347.

Juſtice of Peace may commit to the ſtocks ſome offenders againſt certain penall ſtatutes. *Dal* 347.

Breach of priſon is the eſcape of a felon, although not endicted, out of the gaol, ſtocks, or poſſeſſions of any keeper. *Lam.* 229. *Dal.* 275.

One impriſoned upon a *capias pro fine* is to be delivered upon payment thereof. *Lam.* 574. or upon pledges by recogniſance for payment thereof. *Lam. ibid.*

Priſoners.

Every one who is under arreſts for felony, is a priſoner as well without priſon as in the ſtocks, in the highway, or in the poſſeſſion of him that arreſted or hath the keeping of him. *Dal.* 275. 343.

To break priſon is felony, being committed for felony. *Lam* 228, 424.

"It is no matter whoſe Priſon is broken, whether "the Kings or other perſons, whether it be common "or private gaol, or the Conſtables houſe, or others "houſe who hath the cuſtody of him for felony. "*Dal.* 275. *Stam.* 31.

Reſcous to help a Priſoner committed for felony, to get away, is felony. *Lam.* 229, 424.

If an officer or other whatſoever by his willfull default ſuffer a priſoner to eſcape, it is felony. *Lam.* 229, 424.

Priſon-breach is to eſcape out of the ſtocks, or out of any mans poſſeſſion. *Lam.* 229.

"A Conſtable voluntarily ſuffereth a thief to "drown himſelf; it is felony in the Conſtable, "*Dal.* 276. but if the thief kill, hang, or drown him-"ſelf, it is a negligent eſcape. *Dal. ibid.*

Priſoner

Prisoner of sufficient ability shall bear his own charges, and of them that shall be appointed to guard him to the gaol, and refusing, the Constable of the Parish where he dwelleth, by warrant from the Justice that committed him may levy the same by distress and sale of his goods after apprizement by four of the parish, the overplus to be delivered to the owner. 3 *Jac. c.* 10.

Prisoner not of ability, and those that guard him, to have their charges from the place of apprehension to the gaol born by the parishwhere he is apprehended, the same to be equally taxed by the Constables and Churchwardens, and two or three of the inhabitants, and allowed by the Justice of the Peace. 3 *Jac. cap.* 10.

Any lawfully taxed for the charge of bringing a prisoner to the gaol, and refusing to pay it to the Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levy the same by distress, and (after apprizement by four of the parish) sale of the goods, giving the owner the overplus. 3 *Jac. cap.* 10.

Defendant in any action for a distress taken by force of the statute of 3 *Jac. c.* 10. may plead not guilty, and give the speciall matter in evidence, and upon recovery or nonsuit shall have treble damages. 3 *Jac. c.* 10.

Prisoners discharged by Justices of Peace who take the endictment to be void, may be stayed if they change their opinion before judgement. *Lam.* 540.

"A man outlawed for felony is imprisoned a-
"mongst traitors, and breaking prison setteth them
"loose, this is rescous of a traitor, and treason. *Cro.*
"35. *a.* nu. 5, 6.

Privy

Privy Seſſions, *vide* Seſſions.

Proceſs.

Proceſs hath the name becauſe it proceedeth or goeth out upon former matter either originall or judiciall. *Lam.* 519.

Suggeſtions and informations, whether by word or writing, are but to ſtir up the Juſtices to commend the cauſe to the Inqueſt, and not to award proceſs upon them, *Lam.* 509. unleſs it be in certain cauſes where it is eſpecially given them by ſtatute. *ibid.*

Authority to make proceſs upon endictments is given to the Juſtices by words of their commiſſion, or by implication where the power of hearing and determining is given by their commiſſion. *Lam.* 520.

"Proceſs ought always to be in the name of the "King with *Non omittas*, &c. with *Teſte* of any two "Juſtices under their hands ſitting in the Court. "*Lam.* 520. *Dal.* 412.

No proceſs, plea, or ſuit, is to be diſcontinued by making a new commiſſion of the Peace. 11 *H.* 6. *c.* 6. & 1 *Ed.* 6. *c.* 7. *Lam.* 520. See the end of 1 *E.* 6. *c.* 7.

Proceſs upon all endictments of trepaſs againſt the Peace or upon ſpeciall ſtatute is *Venire facias*; and if he be thereupon returned ſufficient, then a *Diſtringas infinitè*; if he be returned *Nihil habet*, then *Capias alias*, *pluries*, *Exigent*. *Lam.* 522, 523. *Dal.* 412.

Proceſs upon the ſtatute of unlawfull games, liveries, maintenance, archery, &c. *Venire facias*, *Capias*, *Exigent*. 33 *H.* 8. *c.* 10. *Quære*, if it be not repealed by. 37 *H.* 8. *c.* 7. *Lam.* 523.

Proceſs upon the ſtatute of victuals, attachments, *Capias*, *exigent*. *Lam.* 523, 524.

Proceſs upon depraving the Sacrament is two

Capias

Capias, *Exigent*, *Capias ut lagat um*, and may be ſent by any three Juſtices into any ſhire, one being of the Quorum. *Lam.* 524.

Juſtice of Peace may award proceſs into a forrein county againſt an accountant for money levied for making a gaol. 25 *H.*8.*c.*5.5 *El.c.*24. *Lam.*525.

Juſtices of Peace where the ſervant departed, may award a *Capias* to the Sheriff of the ſhire whereinto he departed, returnable before themſelves. 5 *El. c.* 4. So where a decayed bridge is in one county, and the party or land chargeable do lie in another county. *Lam.*525.22 *H.*8.*c.*5.

One indicted of treaſon or treſpaſs in one county, is impriſoned in another; the Juſtices may award *Habeas corpus* to remove him before themſelves. *Lam.*526.

Proceſs upon indictment of felony may be ſent into any forrein county. 5 *E.*3.*c.* 11. *Lam.*527.

Proceſs upon indictment of felony is two *Capias* and an *Exigent*. 23 *E.*3.*c.*14 *Lam.*528.

Indictment of treaſon, felony, or treſpaſs in one county nameth the indicted to be of another, the firſt proceſs ſhall go into the county where he is indicted, the ſecond to the county where he is named, to be returneable three moneths after; and if he be not to be found there, then that Sheriff to make Proclamation at two County Courts before the return that he appear before the Juſtices of the County where the indictment is at the day in the *Capias*; and if he appear not, an *Exigent* to be awarded. 8. *H.*6. *c.*10. *Lam* 525.526.

The two Juſtices of the Peace which have the overſight of the Sheriffs books and of the amerciaments, upon ſuggeſtion may make proceſs as in an action of treſpaſs againſt the offenders of that ſtatute to anſwer before them. 11. *H.*7.*c.* 15. *Lam.*360.

No proceſs is to be awarded by the Juſtices after outlawry, but they are to certifie the outlawry into the

the Kings Bench *Lam.* 521, 522.

Proceſs upon Informations muſt be ſuch as the ſtatute whereupon they are grounded do appoint. *Lam.* 528.

The Sheriff or his miniſter that hath arreſted, or cauſed any fine, ranſome, or amerciament to be levied by reaſon of indictment or preſentment at the Sheriffs turn or lawday without proceſs from the Juſtices, loſeth 40 pound. 1 *E.* 4. *c.* 2. *Lam.* 431, 521.

Informations made in the Seſſions that an Alehouſe-keeper hath done any thing whereby he hath forfeited his recogniſance, the Juſtices of Peace may award proceſs againſt him, to ſhew cauſe why he ſhould not forfeit his recogniſance, *Lam.* 524. but *quære* what proceſs. *Lam.* 524.

Proceſs cannot be awarded by the Juſtices of Peace upon any forfeited recogniſance, except Alehouſes, but they muſt certifie them to the higher Courts. *Lam. ibid.*

Proclamation.

Juſtices of Peace cannot acquit felons by Proclamation, or without ſufficient acquitall; and if they cannot endict them, they muſt remain till the gaol-delivery. *Lam.* 549, 550.

The form of Proclamations to remove a force upon a writ upon the ſtatute of *Northhampton*. *vide Lam.* 168, 169. *Dal.* 61, 62.

Conſtable, if any affray be dangerous, may make Proclamation. *Lam* 132. *Dalt* 33. maketh a *quære*.

One Juſtice of Peace may make a Proclamation in the Kings name to ſtay a riot. *Lam.* 183. *Quære*, for the ſtatutes 1 *M.* 12. 1 *El. c.* 19. are expired.

Juſtices of Peace at every Seſſions uſe to make Proclamation, that if any will inform for the King, he ſhall be heard. *Lam* 520.

Pro-

Proclamation annexed to the ſtatute of 4 *H.7.* 12. is to be read every Quarter Seſſions, or every Juſtice preſent loſeth 20 ſhillings. 4 *H* 7. 12. *Lam.* 633. *Quære* if of force now.

Promoters, *vide* Informers.

Propheſying.

Propheſier with intent to make rebellion, diſſention, loſs of life, or other diſturbance in the Realm, being convicted thereof before the Juſtices of Peace, ſhall be impriſoned one year without bail for the firſt offence, and forfeit alſo ten pound; for the ſecond offence impriſoned all his life, and loſe all his goods and chattels reall and perſonall, and to be impeached within ſix moneths. 5 *El c.* 15. *Lam.* 415, 416.

Purveyors.

If purveyors, caterers, or ſervants of any man but the King, take any thing without the owners will, or as they can agree and make preſent payment, it is felony. *Lam.* 231. *Dal.* 282. *Cro.* 48. *a.*

Purveyour ſhall not take cart or other proviſion of any Prelate or Clerk.

Purveyour, his deputy, undertaker, or ſervant, maketh purveyance without warrant, of any thing above 12 pence, without conſent of the owner it is felony. 2 & 3 *P. & M. c.* 6. *Lam.* 422. *Dal.* 286. *Cro.* 48. *a.*

Purveyour taking any carriage in other manner then is compriſed in his commiſſion, it is felony. 36 *Ed.* 3. *cap.* 2. *Lam.* 423. *Dal.* 286.

Or any purveyance without commiſſion under the great Seal, *Dal. ibid. Cro.* 48. *b.* it is felony.

Or

Or make purveyance of goods above 12 pence, without testimony and apprizement of the Constable and four honest men of the town, and without delivering tales or Indentures under his seal testifying his purveyance, it is felony. *Lam.* 423. *Dal.* 286.

Quære if it be but of the value of 40 shillings or under. *Quære* by whom the apprizement shall be made, and between whom the Indentures shall be made. *Dal.* 287.

To take more victuals or carriages for the Kings house, then he shall deliver to the same house is felony. *Dal.* 287.

To take sheep in their wools betwixt Easter and Midsummer at small prices, and to carry them to his own house to shear them, *Lamb.* 423. *Dal.* 286. 23 *E.* 3. *cap.* 15. is felony.

Quære if the felony of purveyours by 36 *E.* 3. *cap.* 6. be not altered by 23 *H.* 6. 1 & 2.

Purveyour taking any thing of the value of 40 shillings or under, without present payment, loseth double the value of the thing takan; and the Constable upon request made, not aiding him to resist the Purveyour so taking, loseth double damages.

And any of the Kings officers procuring any to be arrested or vexed for such resistance, loseth 20 pound. 20 *H.* 6 *c.* 8 & 23 *H.* 6. *c.* 2. *Lam.* 438.

Purveyour taking any thing of any man to spare him, is to be imprisoned two years, pay treble damages, and ransom. *Lam.* 439.

Purveyour taking corn by other measure then the stricken bushell, or by any more then eight such bushels to the quarter, and that hath taken carriages therefore without making ready payment, is to be imprisoned one year, and pay five pound unto the King, and 5 pound unto the party. 25 *E.* 3. *cap.* 1. 16. *E.* 3. *c.* 3. & 1 *H.* 5 *c.* 10. *Lam.* 439.

Purveyour of timber or his deputy, causing any timber to be felled fit for barking, but onely in bark-

ing time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then onely the timber, loseth 40 shillings for every tree. *Lam.* 438, 439. 1 *Jac. c.* 22.

Dockets of Purveyours ought to be delivered over to the Justices of Peace at the next generall Sessions, and by the Justices to be certified to the Treasurer of the Kings household. 2. & 3 *P. & M. c.* 6. *Lam.* 614.

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, it not as a felon. *Dal* 287.

Undertakers, deputies, servants, and all other which under colour of the Kings Commission to the Kings Purveyours, do take any victuals against the statute, are liable to the pains therein mentioned against purveyours. 2. & 3 *P. & M. c.* 6. *Cro.* 48 *b.*

Justices of Peace are to certifie to the Treasurer of the Kings household the dockets of purveyours (brought to their Sessions by Constables) that the serving of such Commissions, and true answering of purveyances may be better examined thereby. *Lam.* 590. 2 & 3 *P. & M. c.* 6.

Putting out of eyes.

Upon malice prepensed to put out any ones eyes, is felony. 5 *H.* 4. *c.* 5. *Cro.* 49. *a. Lam.* 256. 420. *Dal* 280.

Quarre

Quarter Seſſions, *vide* Seſſions.

Rape, or Raviſhment.

DEflowring of a maid under ten years old, with, or without conſent, is felony without clergy. 18 *El. c.* 6 *Lam.* 256, 421. *Dal.* 290. *Cro.* 47. *b.*

Raviſhing of a woman againſt her will, without conſent either before or after the fact, or being with force, though after ſhe do conſent, is felony without clergy. *Weſt.* 2. *c.* 34. 18 *El. c.* 6. *Lam.* 256, 241. *Cro.* 47. *b. Dal.* 290.

To be preſent and aiding the raviſher, is rape. *Lam.* 258. *Cro.* 47. *b. Stam.* 24. *Dal.* 290.

No rape where the party deflowred conceiveth with child. *Lam.* 257. *Dal.* 289. *Cro.* 47. *b. Stam.* 24.

Deflowring of one kept as the deflowrers concubine, is a good plea upon an appeal that it is no rape; otherwiſe of another mans concubine. *Lam.* 257. *Cro.* 47. *b. Stam.* 24. *Dal.* 290.

Force without carnall knowledge is no rape. *Lam.* 257, 258.

See the ſtat. *de Officio Coronatorii* made 4 *E.* 1. Complaint muſt be made within 40 days, but otherwiſe in an appeal.

A woman that is raviſhed ought preſently to levy hue and cry, and to complain thereof preſently to ſome credible perſons. *Dalt.* 289. *Cro.* 100. *a. Stam.* 22. in indictment of rape, no time to be obſerved.

To raviſh a woman who conſenteth for fear of death, &c. is raviſhment; for conſent ought to be voluntary and free. *Dal.* 290. *Cro* 48. *a.*

"Conſenting after rape doth not hinder, but that "the husband, and if ſhe have no husband, the fa-

"ther or next of blood may purſue the raviſher, to have him convicted. P.R. 133.

Rates, *vide* Taxations.

Rebellious aſſemblies.

The ſtatutes 1 *M.* 12. and 1 *Eliz.* are diſcontinued. *Dal.* 222.

Recogniſance.

Recogniſance is a bond of record teſtifying the recogniſer to owe a certain ſumme of money to ſome other, and the acknowledgement of the ſame is to remain of record, and none can take it but onely a Judge or officer of record. *Dal.* 334.

Every recogniſance taken by a Juſtice of Peace, muſt be made by theſe words *Domino Regi*, upon pain of impriſonment of any perſon that ſhall take it otherwiſe. 33 *H.* 8. *c.* 39. *Cro.* 196. *b.* nu. 11 *Lam.* 162. *Dal.* 175, 379.

Quære if a Juſtice of Peace may not examine upon their oaths the ſureties concerning their ſufficiency, it ſeemeth to be the uſage in the Courts of *Weſtminſter*, and Maſter *Crompton* ſaith that the Juſtices of Peace in their Seſſions may do it *Crompt.* 194.

Sureties in recogniſances ought to be Subſidie men, and they muſt be two beſides the party himſelf. *Lam.* 101. *Dal.* 175.

It is in the diſcretion of a Juſtice of Peace, if he take a recogniſance *ex officio*, to appoint or allow the number of the ſureties, their ſufficiency in goods and lands, the ſumme of money, and how long he ſhall be bound. *Dal.* 174. *Lam.* 100.

If a Juſtice of Peace be deceived in the ability of the ſureties, he may compell the party to put in another. *Lam.* 100. *Dal.* 178.

Ra-

Recognisance of the Peace, without expressing in the condition that it was for keeping of the Peace, seemeth void. *Lam.* 103, *Dal.* 175.

So it is if a recognisance be that a recogniser shall not maim or beat *A.* without expressing keeping the Peace. *Lam.* 103. *Dal.* 175.

Recognisance comprehending no time of appearance, but generally to keep the peace, is good. *Lam.* 103. *Dal.* 176.

Recognisance for the peace upon a *supplicavit*, is not of necessity to be returned untill *Certiorari*. *Lam.* 109. *Dal.* 177.

Recognisance taken to keep the peace against one especially, *quære* if it be good. *Lam.* 104. *Dal.* 176.

"Recognisance taken to be levyed onely of the "goods or onely of the lands of the cogniser, seem-"eth to be good enough. *Lam.* 104 *Dal.* 167.

"Wife or infant under the age of discretion are to "be bound to the peace by their sureties onely. *Lam* 101.

Recognisance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*. *Lam.* 109. *Dal.* 178.

Recognisance not forfeited is discharged by the death of the King, of the cognizer or the party suing for it, if it were against him alone, *Lam.* 113. *Dal.* 141.

The sureties dying, the recognisance is good against the executors, *Lam.* 113. *Dal.* 141.

Recognisances taken are to be certified notwithstanding the death of the King, *Lam.* 113. or of the recognizer, or of the party at whose suit it was granted, *Lam.* 113.

The Recognisance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison, *Lam.* 114. *Dal.* 163.

Recognisance of the Peace brought into the *Custos Rotulorum* and not pursued by the party, may be

called upon for the King by the Clerk of the Peace, *ibid.*

Justices of the Peace cannot award process upon a forfeited recognisance, but it must be certified into the higher Court, except recognisance for alehouses, *Lamb.* 589. *Dal.* 177 *Cro.* 167. *a.* & 196. *b.* nu. 9. and the cause of the forfeiture, *Dal.* 177.

Recognisances or examinations taken concerning suspects or felons are to be certified at the next generall gaol delivery. 2. & 3 *P & M. c.* 10. *Lam.* 212

Recognisances taken by a Justice of Peace *ex officio*, are to be brought into the *Custos Rotulorum* at the next generall Sessions, *Lam.* 109. *Dal.* 177. *Cro.* 139. *a.* but no pain by the statute of 3 *Hen.* 7. 1. if he do not. *Br.* Peace. 11.

None but the King can pardon a recognisance once forfeited, *Lam.* 111. *Cro.* 140. *b. Dal* 181.

" Recognisance taken where the Justice hath no " authority, is void. And taken by authority, if the " Justice insert other matter, it is void. *Cro.* 196, " *b.* nu. 7.

" A recognisance taken by a Justice of Peace is a " matter of record so soon as it is taken and acknow- " ledged, although it be not made up, he entred into " his book, nay, although it be not entred. *Dal.* " 336. *Stam.* 77. *E. Brook Record.* 58.

Reconciliation, *vide* Treason.

Records.

Records be nothing else but memorials or monuments of things done before Judges that have credit in that behalf. *Lam.* 63.

If a record say any thing, no man shall be received to averr or speak against it, *Lam.* 61.

The Judges may correct or amend any record in the

the term wherein the record is to be made, but after they have no power all over them, *Lam.*64.

The record or testimony of a Justice of Peace is in some cases of greater force then an endictment of a Jury, and againit it the party shall not be admitted to traverse, *Lam.*65.

Embezelling of a record is felony, but not to be dealt withall by Justices of Peace, *Lam.*231,549.

Precepts for surety of the peace, speciall records for conviction of forcible entries made out of the Sessions, are not records of Sessions, *Lam.*383.

Records of causes determinable at the Sessions taken by the Justices of Assise at their gaol-delivery as Justices of Peace, are to be left with the Clerk of the Peace to be brought to the next Sessions of the Peace, *Lam.*391.

One pleadeth a record before other Justices by way of justification, the Justices ought to give him day to bring in the record, *Lam.*555.

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezelling, wilfull raising of an endictment; or maliciously enrolling that for an endictment, which was not found, or changing an indictment of trespass into an indict of felony, loseth his office, and shall be fined and imprisoned according to his offence, *Lam.*631.

"To rase a record is felony; yet if a Judge do "embezell or rase a record, it is but misprision in a "Judge, *Dal.*283. *Br. Coron.*174. *& Treason* 31.

"Embezelling of any record, writ, return, pannell, "process, or warrant of Atturney in Chancery, "Kings Bench, Exchequer, Common pleas, or "Treasury, is felony in the parties, their counsel- "lers, procurers, or abetters, *Dal. ibid.*

"*But it seemeth that Iustices of Peace have not to* "*do with these felonies*, *Lam.* 549. *Cro.* 56. 8 *H.* 6. *c.* "12. *Dal.* 283. *for that these records do not remain* "*with the Iustices of the Peace. Cro. ibid.*

Recusants.

Wilfully absenting themselves from Church 12 moneths, contrary to 1 *El.c.*2. and convicted, being of 16 years of age, are to be bound to the good behaviour, upon certificate of one Justice of Peace to the Kings Bench, 1 *Eliz.* 2. besides other penalties. 23 *Eliz Dal.*104.

Every Justice of Peace may give notice to any person to forbear to receive or keep such as shall obstinately refuse to come to the Church by the space of a moneth together. 35 *El.c.*1.

Heir of a recusant being a Recusant at his Ancestours death, conforming himself, and taking the oath of supremacy made 1 *Eliz.* before the Archbishop or Bishop of the Diocess, shall be free from penalties for the recusancy of his ancestour. 1 *Jac.c* 4.

Heir of a Recusant being under 16 years at the death of his ancestour, at or after 16 years becomes a Recusant, he is not to be freed of his ancestours penalties for recusancy, till conformity as aforesaid. 1 *Jac.c.*4

Two parts of Popish Recusants lands being seised for payment of 20 li. a moneth, the third is not to be charged with it, but is to descend to his heir, and the two parts to remain in the Kings hands till he be satisfied thereof both for the ancestour and heir, 1 *Jac. cap.* 4.

Any sending his children beyond the seas out of the Kings dominions to any religious house, to be instructed or streng hned in Popery, loseth 100 pounds, and the person so going, or being there, and not returning within one year, and submit, is disabled to inherit, purchase, or take any lands or goods in his Majesties dominions, till conformity, 1 *Jac.c.*4.

Estates in trust for benefit of any sent beyond the sea to any religious house to be instructed in Popery, are void, 1 *Jac.c.*4. "su-

"Justices of Peace not certifying at the next Qu.
"Sessions the oaths taken, of any reconciled to the
"See of Rome, upon his submission, returning in-
"to the Realm, doth forfeit 40 pound, 3 *Jac.* 6.
"5 *Lam.*633.

Forfeitures upon the statute of 1 *Jac.c.*4. against Popish Recusants, half to the King, and half to the suer in any the Courts of Record at Westminster by action of debt, &c. 1 *Jac.c.*4.

Popish Recusant conforming himself in coming to Church according to the law, and after is convicted for not receiving the Sacrament once every year, loseth for the first year 20 pound, for the second year 40 pound, for the third year 60 pound: & if after conformity in receiving the Sacrament, he offend therein, he loseth for every offence 60 li. one moity to the of King, the other to the Informer, to be recovered in any the Kings Courts at Westminster or before the Judges of Assise, or Justices of the Peace at their Quarter Sessions by action of debt, &c. 3 *Jac. c.* 4. *Lam.*418.

Constables and Churchwardens, or for want of them, the high Constable once every year, are to present the monethly absence of Popish Recusants from Church, with the names of the servants and children above 9 years old, or lose 20 shillings for every offence, and upon their conviction to have 40 shillings out of their goods, 3 *Jac.cap.*4 *Lam.*616.

Clerk of the Peace is to record the Presentment of Constables and Churchwardens for monethly absence from Church, without fee, or loseth 40 shillings, 3 *Jac.c.*4.

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and be determined by the Justices of Peace at their Quarter Sessions, as Justices of Assise might before, 3 *Jac.* 4. *Lam.*617.

Upon an indictment for not coming to Church,

or not receiving the Sacrament, Justices of the Peace at their Quarter Sessions may by proclamation command the indicted to render his body to the Sheriff before the next Quarter Sessions or Assises, and in default of appearance, then the same to be a sufficient conviction, 3 *Jac.c.*4. *Lam.*616.

Popish Recusant convicted of not coming to Church according to law, shall in Easter or Michaelmas term next after the conviction, pay into his Majesties receit after the rate of 20 pound a moneth, and so to continue without any other indictment, till he conform himself, and in default of payment, all his goods, and two parts of his lands to be seized till conformity, leaving the mansion house to the third part, 3 *Jac.c.*4.

The King seizing two parts may not let it to any Recusant nor for their use, and the lessee must give security to the King, not to commit waste, 3 *Jac. cap.*4.

Indictments against Popish Recusants are not to be avoided for want of form untill conformity, 3 *Jac. cap.*4.

Justices of Peace may hear and determine all offences against the statute, 3 *Iac.cap.*4. except treason, 3 *Iac.c.*4. *Lam.*617.

Attainder of felony upon the statute of 3 *Iac.c.*4. of Popish Recusants, barreth not dower, nor corrupteth blood, 3. *Iac.c.*4.

Any sued for doing any thing warranted by the statute of 3 *Iac.c.*4. may plead the generall issue, and give the speciall matter in evidence, 3 *Iac.c.*4.

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 *Iac. c.*4. for not receiving the Sacrament, nor the wife after his death.

Popish Recusant convict, coming to the Court where the King or his heir apparent is, without the Kings command, or warrant in writing from the Councel, loseth 100 l. 3 *Iac. c.* 4. the one half to the prosecuter.

Recu-

Recusants convicted or other forbearing for three moneths to hear divine service, now dwelling in London or within 10 miles (except tradesmen having no other dwelling) are to depart within 40 days, and if they come to dwell therein within 3 moneths, then to depart within 10 days after conviction, and to deliver their names to the Maior of London or the next Justice of the County, or lose 100 pound, 3 *Iac. c.* 5. the moity to the prosecuter.

Every one not reparing every Sunday to some usuall place appointed for Common prayer, there to hear divine service, upon conviction within one moneth after default, upon confession, or oath of one witness, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse for his absence, the Churchwardens by warrant from the Justice of Peace, may levy 12. pence for every default by distress and sale of the offenders goods; and in default of distress the Justice may commit him till he pay it, which is to be imployed for the poor. 3 *Jac. c.* 4. *Dal.* 105. *Coke* 11. 61. *b.*

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retain in their service any absenting themselves a moneth together from Church without reasonable excuse lose 10 *l.* a moneth, 3. *Iac c.* 4.

The King or five Lords of the privy Counsel may by writing under the hands of the privy Counsel license a Popish Recusant confined five miles, to travell out of his compass for such time as is contained in the license, without inserting any cause, 3. *Iac. cap.* 5.

Popish Recusant confined to five miles informing upon oath four Justices of Peace that he hath necessary occasion to travell farther, and that he will make no causeless stayes, they with the assent of the Bishop

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of the Dioceſs, Lieutenant or his Deputy under their hands and ſeals, and ſpecifying in their licenſe the cauſe and time of travell, may by licenſe under their hands and ſeals give liberty to him to travell forth of his compaſs, all other licenſes to be void; and any travelling without ſuch licenſe, not having taken ſuch oath, ſhall forfeit as a Recuſant convicted by the ſtatute of 35 *Eliz. c.* 2. 3 *Iac. c.* 5. *Dal.* 109. *Lam.* 365. and any one of the four Juſtices may miniſter the oath, 3 *Iac. c.* 5. *Lam.* 296.

Statute 35 *El. c.* 2. confining Popiſh Recuſants to certain limits is hereby confirmed, and the proviſo for licenſing them to go beyond their limits is hereby repealed, 3 *Iac. cap.* 5.

Popiſh Recuſants convicted, are not to practiſe the common or civill law, or phyſick, nor to execute any offices, places, or trades belonging to any of them, nor to be Miniſter or officer in any Court, nor to have any place of command, or office in warr, nor any office or charge in any ſhip, caſtle or foretreſs of the Kings, on pain of 100 pound, one moity to the King, the other to him that will ſue, 3 *Iac. c.* 5.

Popiſh Recuſant convicted, or whoſe wife is a Popiſh Recuſant, during recuſancy not to execute any publick office or charge in the Realm, 3 *Iac. cap.* 5.

Married woman being a Recuſant convicted, whoſe husband is not convicted, not conforming her ſelf according to law, forfeiteth to the King two parts of her dower or joynture, and is diſabled to be executrix or adminiſtratrix to her husband, 3 *Iac. c.* 5.

Popiſh Recuſant upon conviction is to be adjudged excommunicate to all intents, except in being able to ſue for or concerning his lands and leaſes not ſeiſed by the King, 3 *Iac. c.* 5.

Recuſant convicted, married otherwiſe then by a Miniſter lawfully authorized, and according to the orders of the Church, is diſabled to be tenant by courteſie,

courtesie, or in dower, or by joynture, or to have widows estate, or frankbank, or any part of her husbands goods; and marrying any, by whom he is not entituled to be tenant by the courtesie, loseth 100 pound, one moity to the King, the other to him that will sue. 3 *Iac. c.* 5.

Child of a Popish Recusant, not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth 100 pound, whereof one third part to the King another to the poor of the parish, and the third to him that will sue, 3 *Iac. c.* 5.

Popish Recusant not excommunicated, buryed otherwise then according to the orders of the Church his executors or administrators knowing it or causers of it, lose 20 pound, one third part to the King, one third part to the poor of the Parish, and one third part to him that will sue for it. 4 *Jac. c.* 5.

Popish Recusant convicted during his conviction, to be from the ending of that Parliament disabled to grant any avowson, &c. or to present or nominate to any spirituall living, the same to remain to the Chancellors of the Universities of Oxford and Cambridge, according to the several shires limited in that statute, so that they present none having a former benefice with cure; if they do, the same to be void. 3 *Iac. c.* 5.

Penalties upon the statute of 3 *Iac. c.* 5. against Recusants to be recovered in any his Majesties Courts of Record by action of debt, bill, plaint or information, without essoin, protection, or wager of law. 3 *Jac. cap.* 5.

Married woman under Baroness, convicted of not coming to Church, and of not receiving the Communion, who doth not within three moneths after conform her self, to be committed by two Justices of the Peace, one being of the Quorum, untill conformity, unless her husband pay 10 pound a moneth to the Kings,

King, or the third part of his lands. 7 *Iac. c. 6.*

The penalty of 12 pence, and of 20l. a moneth shall be both of them paid by a Recusant convict. *Dal.* 106. *Co.* 11. 63. *b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who repaireth not to the place of his dwelling or place of his birth, there to notifie himself to the Minister & Constables according to the statute of 35 *Eliz.* or afterwards remove five miles from the same, (if upon apprehension he conform not himself within three moneths) to abjure the realm, and assign him his time and haven. 35 *El. c. 2. Dal.* 109.

The form of the Oath.

You shall swear you shall depart this Kealm of England, and all other his Majesties dominions, and that you shall not return hither or come again into any of his Majesties dominions without license of our Soveraign Lord the King, or of his heirs; so help you God. Dal. 109, *Stam.* 119.

Every such Recusant that refuseth to abjure, or after abjuration doth not within the time appointed go to such haven and depart, or after such abjuration returneth without his Majesties speciall license, in every such case shall be adjudged a felon. 35 *El. c. 2. Dal.* 109. *Lam* 419. 1 *Iac c.* 25.

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred of record before them, and certifie it at the next generall gaol-delivery in the said county. *ibid.*

The Bishop of the dioceſs or any one J. of P. or Minister of the parish where such convicted Recusant shall be, may require his submission. *ibid.*

Justices of Peace at their Quarter Sessions may inquire, hear and determine of all Recusants both for not coming to Church, and not receiving the Sacrament.

ment according to law, as Just. of Assise and gaol-delivery may do, and at the Sessions (in which such indictment shall be taken) make proclamation to render their bodies to the Sheriff, and before the next Quarter Sessions, at which if the offender make not appearance of record, it shall be a conviction. 3 *Iac. cap.* 4. *Lam.* 616.

"Popish Recusant convicted is disabled to be executor, administrator, or guardian: the guardianship to go to the next of kin to whom the land should not come, being no Recusant; and he to accompt to the heir, as the case shall require. 3 *Iac. cap.* 5.

"Recusants armour, gunpowder and munition by warrant of four Just. of P. in their generall Sessions shall be taken from them, (other then necessary weapons allowed by the said Justices for their defence) and kept at the Recusants costs, where the Justices shall appoint. And the Recusant, refusing to tell what armour he hath, or disturbing the delivery thereof, forfeiteth the armour, and is to be imprisoned for 3 moneths without bail. 3 *Iac. c.* 5. *Lam.* 617, 618.

Regrator.

Regrator is he that buyeth live or dead victuals, tallow, or candles in the market, and selleth the same there, or within 4 miles. 13 *El. c.* 25. *Lam.* 450. 5. *Ed.* 6. *c.* 14. 5 *El. c.* 12.

Release.

Justice of Peace compelleth one of his own motion to give surety of the Peace untill a certain day, he may by like discretion release it before the day. *Lam.* 110. *Cro.* 139. *b.* nu. 16. *Dal.* 179.

Party bound generally to keep the Peace without any day limited, it is for life, and no man can release

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it. *Lam.* 110. *Dal.* 179. *Cro.* 142. *b. Brook. Peace* 17.

Recogniſance is taken at the ſuit of *A.* to keep the Peace againſt him onely, *A.* may releaſe it before the ſame Juſtice or any other that will certifie it. *Lam.* 110. *Dal.* 179. *Cro.* 139. *b.* nu. 10. 169. *a.* That releaſe being certified at the next Quarter Seſſions will diſcharge the party bound of his appearance, ſo that he ſhall not be called upon for his recogniſance. *Dal. ibid. Cro.* 139. *b.* nu. 15.

Recogniſance is taken *verſus cunctum populum, præcipuè verſus A.* yet *A.* may releaſe it before any Juſtice: *tamen quære, Lam.* 110. *Cro.* 142 *b. Bro. Peace* 17. *Dalt.* 180.

Recogniſance is taken by diſcretion or upon ſuit, the King cannot releaſe or pardon it before forfeiture. *Lam.* 111. *Cro.* 140. *b.* 141. *a. Dal.* 180.

The Peace being releaſed, the recogniſance muſt not be cancelled, but certified at the Seſſions with the releaſe, leſt peradventure the Peace was broken before the releaſe made, *Lam.* 111. *Dal. ibid. Cro.* 139. *b.* nu. 16, 169. *a.*

Whether the good abearing taken upon complaint may be releaſed by any ſpeciall perſon, *Quære Lam.* 113. *Dal.* 197.

Neither the Juſtice of the peace, nor the party can diſcharge a recogniſance of the Peace by the releaſe out of the Seſſions; for firſt the recogniſance is made to the King, and therefore none but the King can releaſe or diſcharge it. Secondly, the recogniſance is taken for the parties appearance, and the releaſe cannot diſcharge the appearance. *Dal.* 180. *Brook Peace* 17.

The appearance is requiſite, notwithſtanding any releaſe made; firſt, for the ſafety of the recogniſance; ſecondly, that others may object in open Seſſions, if he have broken the Peace, that he may be indicted thereupon. *Dal.* 180.

E contra Cro. If the Juſtice of Peace at the Seſſions

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do certifie the releaſe, by this the obliged is diſcharged, and ſhall not be called upon for his recogniſance, nor his default recorded; for the principall cauſe of the recogniſance was the keeping of the Peace, the which is diſcharged by the releaſe which is certified at the Seſſions, and then the appearance is but acceſſary to the ſame, and the intent is onely that then he ſhould finde new ſurety if the party will not releaſe; and this is the common uſage. *Cro.* 139. nu. 15.

Vide plus Recogniſance, & Forfeiture.

Religious houſes.

The owner of the ſite of the religious houſe diſſolved, in yearly value under 200 pound, muſt keep a continuall houſe there, or loſe 20 nobles a moneth, to be enquired of and determined at the Quarter Seſſions. 27 *H.* 8. *c.* 22. & *El. c.* 2. *Lam.* 471.

Of Churches and reparations thereof, and of Church Duties, and Rates.

Touching Churchwardens, their Election and power in that office upon the new Ordinance of 9 *Febr.* 1647. in regard ſuch matters do not properly and immediately belong to the ſubject matter of this Treatiſe being intended onely as an Enchiridion for the uſe of Juſtices of the Peace you may pleaſe to peruſe Maſter *Shepherd* his book of the office of Churchwardens where it is Conceived you will finde very ample ſatisfaction, and what concerneth the Authority of Juſtices upon that Ordinance out of the Seſſions you have here truly abſtracted: which doth conſiſt in theſe inſuing Particulars. 1 Two of them muſt under their hands and ſeals confirm the Election of Churchwardens made by the Pariſh

2 Two

2 Two of them must approve the rates justly made by the Churchwardens. 3 They must cause by their warrant to the present or subsequent Churchwardens. 1. Two be levied the rates made, and all the arrears. 2 All forfeitures for any offence against that Ordinance. 3 All such moneys as remain in the hands of any Churchwardens upon his Accompt. 4 2 shillings 6 pence for the pain upon the persons paying the same, and to restore the surplus of the distress; And if no distress, or upon refusall of payment, to imprison them without bail untill payment. 5 Upon refusall to accompt to imprison him or them without bail untill payment made. 6 Two Justices and the new Churchwardens are to take their accompt of the old Churchwardens. 7 Any Justice upon Information, that a Church, Chancell, or Isle is in decay, may examine it, and upon his view or Certificate from the minister, and some Parishioners, appoint under his hand and seal the Churchwardens how it shall be one, and in what time, and by whom, and if it be not so done binde them over to the Sessions, where each may be fined as the Justices please not above 40 shillings to the poors use, and committed till payment. 8 If any Parishioner refuse to pay the Clerk, or Sexton his fees, any two of them may by warrant under hand and seal order them to pay it, to be levied by warrant from two of them in like manner as the rates made for Churchwardens; and some Conceive They may by proof of witnesses upon oath determine any offence against this Ordinance. *Ord. 9 Febr.* 1647.

Replevin, *vide* Bailment.

Rescous.

Rescous is to help a prisoner to get away; and if it be a felon, it is felony. *Lam.* 229 *Dal*, 274, 275.

Rescous

Reſcous of a felon before arreſt, is no felony, otherwiſe after arreſt. *Lam.* 230. *Dal.* 276. *Quære Stam.* 31.

Reſcuing a priſoner going to the gallows, is felony. *Dal.* 276.

A warrant being granted by a Juſtice of the Peace for unlawfull hunting of Deer or Conies, to make reſcous thereupon, is felony. *Dal* 75.

Reſcous againſt an officer or perſon authorized to execute the ſtatute of 39. *El. c.* 4. loſeth 5 pound, and is to be bound to his good behaviour *Dal.* 128.

"If a ſtranger take one out of priſon with the "priſoners aſſent, if he be in for felony, it is felony "by the common law in the reſcuer, and he is a "principall by the ſtatute *De priſonam frangentibus.* "*Cro.* 38. *a.* nu. 2.

"One is in the ſtocks for ſuſpition of felony, and "is let out by a ſtranger; it is felony, although the "party who eſcaped, is not indicted. *Cro.* 35. *a.* nu. 3.

Reſtitution of Poſſeſſion.

None ſhall have reſtitution but ſuch as are put out of houſe or land. *Dal.* 214. *Cro.* 162. *b. Lam.* 153.

If it be found upon enquiry that any have entred or held with force, contrary to the ſtatute 8 *H.* 6. *c.* 9. the Juſtice of Peace may reſeiſe and put the party ſo put out in full poſſeſſion. *Cro.* 161. *b. Dal.* 214 but the putting out muſt firſt be found. *Lam.* 152. *Cro. ibid.*

The Juſtice of Peace needeth not to ſtay or ſtand upon the right or title of either party, *Dal.* 214. *Cro.* 64. *a.*

No reſtitution is to be made where there was once a poſſeſſion in law. *Lam.* 153. *Dal.* 217.

In a reſtitution it is not enough that the putting

out

out be found, unless the indictment do also conta
in it *adhuc extra tenet*. *Dal.* 214. *Cro.* 163. *b. Lam.*
153.

Restitution ought to be made to none other tha
the party put out. *Dal.* 214. *Cro.* 162. *b. Lam.* 153.

After the entring or detaining with force found
the Justice of peace may by himself or precept to t
Sheriff under the test. of himself alone restore t
party grieved to his possession. *Dal.* 216 *Lam.* 156.

None can make restitution but they before wh
the indictment is found, but the Justice of the Kin
Bench, either upon certificate made by the J. of
before whom it was found, of the presentment, o
the said presentment or indictment be removed
Certiorari. *Dal.* 216. *Lam.* 157, 158.

If the Sheriff return upon a precept or writ of r
stitution that he cannot make restitution for resi
ance, he shall be amerced, for he may take the pow
of the county. *Dal.* 216. *Lam.* 158. *Cro.* 163. *b.*

Justice of Peace before whom the presentment
made, dyeth before restitution; *quære*, whether t
Justices at the Sessions can award it. *Lam.* 157.

Justices of Peace ought not to award restitutio
where the indictment is insufficient in law, either
in matter or form. *Dalt.* 217.

In the indictment, 1 not onely an entry must b
but also a putting out: 2 the indictment must e
press the quality of the thing, (*viz.*) whether it
messuage, cottage, meadow, pasture, wood, or la
arable: 3 it must say, *Et adhuc extra tenent*: 4 *Ex
lerunt & adhuc extra tenent*: 5 one of these two word
manu forti, or *cum multitudine*. *Dalt.* 214, 215. *Cro.*
169. *b.* 163. *b. Lam.* 153.

If error or insufficiency be in the indictment take
before Justices of peace, and restitution awarded, a
two Justices of those that were present at the takin
thereof may at another Sessions, or without Sessio
grant a *supersedeas* if the Sheriff have not made re
stitution before. *Dal.* 215. *Cro.* 162. *a.*

If restitution be made by Justices upon an insufficient indictment, and it be removed into the Kings Bench, the Court will restore the party put out by the Justice of Peace. *Dal.* 215. *Cro.* 168. *a.*

Causes to stay restitution.

1 No restitution upon an indictment to be made, the party indicted hath had the occupation or been in quiet possession three years together next before the day of the indictment found, and his estate not ended, which the party may alledge for stay of restitution untill it be tried, if the other will traverse or deny the same 31 *Eliz. cap.* 11. *Dal.* 219.

2 *Certiorari.*

3 A traverse: *quære Lam.* 158.

4 Insufficiency of the indictment.

5 Insufficiency of the Jurors not having 40 shillings land by the year. *Dal.* 218. *Lam.* 152. *Cro.* 165. *b.* *Quære.*

Justice of peace, upon indictment found, may ver restitution as formerly to freeholders, to tenants r years by copy of courts, guardians in Knights rvice tenants by *elegit*, stat. Merchants or staple. *al.* 207. 21 *Jac. c.* 15.

" The disseisee outeth the disseisor by force, the disseisor shall be restored. *Lam.* 148. *Dal.* 217.

" Upon traverse the Justice may stay restitution. *Dal. ibid.*

" The disseisee entreth peaceably, and keepeth out the disseisor by force; the disseisor shall not be restored, because the disseisor had the younger title. But the disseisee shall be imprisoned and fined because he held with force. *Cro.* 162. *b.* & 164. *b.* *Dal.* 217.

" The disseisee entreth quietly upon the disseisor, and so abide together divers days, and then the disseisee putteth out the disseisor by force, the disseisor

" seisor shall not be restored. *Dal.*217. *Cro.* 163.*a.b.*

" Wife, children; and servants do preserve a pos-
" session, but cattle on the ground do not. *Dal. ibid.*
" *Cro.*164.*b.*

" Two are in possession by severall titles in one
" house, the law judgeth him in possession who hath
" the best right to possession: As *A.* enters wrong-
" fully upon *B.* and both do continue in the house
" afterwards *B.* puts out *A.* with force; *A.* shall not
" be restored, for *A.* never gained possession by his
" entry *Dalt.*217.*Cro.* 163.*b.*

" Two are joyntenants or tenants in common
" whereof one forcibly putteth the other out of pos-
" session: *Quære* what a Justice of peace may do
" therein for that his entry and possession is lawful
" *Dal.*217.*Pax regis* 39.

Restitution of stoln goods.

He that hath goods stolne, if the felon be there-
indicted and arraigned, and found guilty thereof, or
otherwise attainted by reason of evidence given by
the party robbed, or the owner of the goods, or other
by their procurement, then the goods shall be re-
stored though they never made fresh suit. *Dal.*306.
*Cro.*191.*a.Lam.* 586.

And the Justice have power to award writs of re-
stitution. 21 *H.*8.*c.*11.*Lam.* 586.*Cro.*191.*a.Br. Re-
tution* 22.*Dal.*306.

Executor shall have restitution after attainder
conviction upon evidence by their means given
*Dal.*306.

Three are robbed, restitution shall be onely to him
for whose goods the felon was indicted. *Dal.*306.
*Cro.*191.*a.*

A felon stealeth from severall men, is attainted
onely at the suit of one; the King shall have the goods
of those, at whose suit he was not attainted. *Dal.*
306. The

There be divers theeves, and onely one principall is attainted, the robbed shall have restitution. *Dal.* 307.

If the felon sold the stoln goods in market overt, or in a fair, no restitution, except he that brought them were privy to the felony. *ibid. Cro.* 191. *a.*

No restitution of stoln goods, if he know not the felon. *Dal.* 307.

No restitution if the felon leaveth the goods and escapeth, and the Lord of the Manour seiseth them. *Dal.* 307.

If the felon had not the goods in his possession when he fled, but left them elsewhere, they are not waived, but the owner may take them wheresoever he findeth them. *Co.* 5. 109. *Dal.* 307.

"A man had his horse stoln, and so he published "it, but knew not who stole it, so that he could not "indict him, &c. It seemeth that he shall not have "his horse again, for it was his folly to publish that "it was stoln, for he might have demanded it, as "lost. And when he knew who took his horse, he "might afterwards indict him. *Cro.* 191. *b.*

Return.

Recognisance taken by the Justice of Peace *ex officio*, ought to be returned at the next Quarter Sessions. *Lam.* 109. *Dal.* 173. *Cro.* 139. *a. Supplicavit* is to be returned into the Court whence it came. *Lam.* 107. *Dal.* 177.

Return of a recognisance upon a *supplicavit*, is not of necessity till *Certiorari*. *Lam.* 109.

Return of Jurors. *vide* Jurors.

Vide recognisance, & Release, & Certificate.

Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawfull act, and do accordingly execute or attempt the same. *Lam.* 176. *Cro.* 61. *a.* nu. 2. *Dal.* 221.

" Three or moe enter into land with force, &c. " where their entry is lawfull, it is a riot. *Dal.* 226. " *Cro.* 64. *a.* nu. 49.

What Assemblies shall not be said a Riot.

1 Sheriff or Bailiff levy people to serve the Kings writs. *Lam.* 178. *Dal.* 223.

2 Constable gathereth assistance of men with weapons to part an affray. *Lam.* 178.

3 A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to market. *Lam.* 179. *Dal.* 224. *Cro.* 64. *a.* nu. 42.

4 Many assemble together, and they know not to what end. *Lam.* 179. *Cro.* 61. *b.* nu. 7. *Dal.* 222.

5 Many assemble at a Church-ale, or at a Christmass dinner, and they suddenly fall out and fight. *Lam.* 179. *Dal.* maketh *quære* 223.

6 A number of women and children under the age of discretion flock together for their own cause, unless moved by a man of discretion to do some unlawfull act. *Lam.* 180. *Dal.* 226.

7 To gather meet company to carry away a piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers. *Lam.* 178. yet if he use threatning words, as to say he will have it in spight of the other, or though he die for it, his doing may then become a riot. *Dal.* 225. *Lam. ibid.*

8 To

8 To meet to drink at an alehouſe, to play at football, bucklers, bear or bull-baiting, dancing, bowls, cards or dice, or ſuch like diſports. *Dal.* 223. *Lam.* 178. *Cro.* 61. *b.* nu. 7.

9 To uſe harneſs on Midſummer day at night in London, or on May day in the countrey. *Lam.* 178. *Cro.* 64. *a.* nu. 43. *Dal* 223.

The Maſter intending a riot, taketh with him his ordinary ſervants who know not his intent, it is no riot in the ſervants. *Lam.* 179. *Cro.* 61. *b.* 62. *a.* nu. 13. *Dal.* 222.

A Jury falleth out and fighteth, it is no riot. *Dal.* 222. *Lam.* 180.

If any aſſemble for any diſports, as aforeſaid, with intent to break the Peace, and make an affray, or do other outrage, it ſeemeth to be a riot in ſo many as come with ſuch intent. *Dal.* 223.

Quære if falling out ſuddenly at ſuch a meeting, and then falling to take parts, be a riot, *Dal.* 223, 224. But if by agreement they meet again and fight, it is a riot. *ibid. Vide Dal.* 224. *Cro.* 61. *b.* nu. 12.

It can be no riot, except there be an intent precedent to do ſome unlawfull act with force. *Dal.* 222. *Cro.* 62. *a.* nu. 13.

Yet if a man go to Seſſions or market with his ſervants in harneſs, though there be no intent to commit a riot, yet the manner maketh a riot. *Cro.* 61. *a. Vide* 2 *El.* 3. *cap.* 3. *Dal* 225.

What one Juſtice of Peace is to do in caſe of Riots.

He may prevent a riot before it be done, or ſtay it in the doing, and in the doing may take and impriſon the rioters, and binde them to their good behaviour. *Dal.* 109. *Lam.* 181.

A riot being done, Juſtices of peace can neither

record the riot, nor make enquiry, nor assesse the fine, nor award process, nor meddle with it, but onely as a trespass against the Peace, or upon the stat. of Northampton of forcible entry. *Dal.* 110. *Lam.* 181.

Justices of peace sitting in a judiciall place, and seeing a riot, may command them to be arrested, and record it, and it concludeth the offenders. *Dal.* 110. *Cro.* 65 nu. 54 *Lam.* 385.

But a Justice of peace in another place seeing a riot, and recording it, the parties may traverse it. *ibid. Cro.* 65. *a.* nu. 53. *Lam.* 386.

Every Justice of peace being of and in the county, having notice of any riot, ought to have a care to execute the statute 13 *H.* 4. *c.* 7. *viz.* that the rioters be arrested, &c. and removed, otherwise the next Justices forfeit 100 pounds a piece, and every other Justice in whom there shall be default, fineable in the Star-chamber. *Dalt.* 110. *Cro.* 124. *a.* nu. 22.

One Justice of peace may arrest rioters, enforce them to finde sureties for the Peace or good behaviour, or in default commit them to prison. *Dal.* 111. *Cro.* 157. *b. Lam.* 181.

A Justice of peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come, or else arrest them if they offer to break the Peace. *Dal.* 110. *Lam.* 181. *Br. Peace.* 7.

If the Justice of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to finde sureties for the peace, and his command by word is sufficient. *Dal.* 110. *Cro.* 64. *a.* nu. 45. *&* 148. *b.*

One Justice of peace may cause all statutes for suppressing of riots to be put in execution. *Dal.* 111.

If the riot be notorious, it is not safe to stay complaint or information. *Dal.* 111.

What

What two Iuſtices of Peace may do in a Riot.

They ought to ſend fort he Sheriff or Under-ſheriff, if none of them come. *Dal.* 112. *Lam.* 327.

If one or two next Juſtices do come, and not the Sheriff or Underſheriff, ſuch as come ſhall be excuſed of their fine of 100 pound. *Dal.* 111. *Lam.* 327. *Cro.* 63. *b.* nu. 35.

If one Juſtice of peace in the county ſhall execute the ſtatute of 13 *H.*4 *c.*7. it ſhall excuſe the next Juſtices. *Dal.* 112. *Lam.* 326, 327.

Two Juſtices of Peace preſent without the Sheriff, are fineable if they do not all which by the ſtatute 13 *H.*4. *c.*7. ought to be done. *Dal.* 112. *Lam.* 327.

"If two Juſtices of Peace (without the Sheriff "or Underſheriff) ſee perſons committing a Riot, "they may cauſe them to be arreſted, and record it. "*Lam.* 319. *Quere.*

The particulars which the two next Iuſtices of Peace with the Sheriff or Under-ſheriff muſt do upon the ſtatute of 13 *H.*4. *c.*7. *Dal.* 113.

1 They muſt go to the place where riot is. *Dal.* 113.

2 They ſhall take the power of the county (*viz.*) all above 15 years of age, under the degree of Barons, upon pain of impriſonment, fine and ranſom. *Dal.* 114 *Cro.* 157. *b. Lam.* 314, 315.

It is not good to raiſe the power of the county without certain information and knowledge, yet they may do it upon information, (though it be falſe, and be excuſed) or without information, if when they come they finde one. *Dal.* 114. *Lam.* 115, 116. *Cro.* 64. *b.* nu. 49.

3 They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons. *Dal.* 114. *Lam.* 316, 317.

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth. *Dal.* 115.

Such as they meet coming from the place riotously arrayed they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them. *Dal.* 114. *Lam.* 316. *Cro.* 63. *a* nu. 32.

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that process may come from thence. *Dal.* 115. *Lam.* 318.

The Justices may grant a warrant for such as they see escaping, to be bound to the good behaviour. *Dal.* 115. *Cro.* 196. *a.* nu. 27.

And so they may do upon information, but it is best to do it upon enquiry, and so to fine them. *Dal.* 115.

In execution of the said arrest of rioters, the Justices may justifie the beating, wounding, or killing of any the rioters which resist or will not yeeld. *Dal.* 115. *Lam.* 316. *Cro.* 62. *b.* nu. 20. & 158. *b.*

4 After arrest, the Justices, Sheriff or Undersheriff shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formall and certain, as time, place, number, weapons, manner, &c. *Dal.* 119. *Cro.* 63. *a.* nu. 31. *Lam.* 316, 317.

The form of the record, vide Dal. 401. *Lam.* 220.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders. *Dal.* 115. *Lam.* 318.

If the rioters make a riot upon the Justices they may record it also, *Dal.* 115.

Justices

Justices record a riot, and upon examination it appears no riot, or saw it not, or there was no riot, yet the parties are concluded. *Dal.* 116. *Cro.* 63. *a.* nu. 33. 65. *a.* nu. 56. 130. *a. Lam.* 317.

5 The Justices are presently to commit rioters to the gaol, and the power of the county ought to be aiding to the Sheriff or Under-sheriff, *Dal.* 116, 117.

None may commit the rioters but the Justices who had the view, *Dal.* 116.

If the Justices and Sheriff, or Undersheriff commit to prison the offenders, and do not record the riot, every one of them loseth 100 pound, or do record the riot, and do not commit the offenders, *Dal.* 117. *Cro* 61. *b.* nu. 10.

6 The said Justices and none other shall assesse the fine upon the offenders, which by the statute of 1 *H.* 5. *c.* 8. ought to be of good value, that thereout the charges of the Justices and other officers may be born, yet must it be reasonable and just, *Dal.* 116. *Lam* 317. *Cro.* 161. *a.* nu. 45.

The fines must be imposed upon every offender severally, *Dal.* 117. *Co. lib* 11. 43, 44.

The fine must be estreated into the Eschequer, *Dal.* 117. and then to deliver the offender as it seemeth. *ibid.*

The Justices, as it seemeth, may out of the fines pay the charges of the said Justices, and of the Jury who made the enquiry, for their diet, and the Sheriffs fees; and the Justices Clerk who maketh up the record, may have his fees out of that money, or rather may take of every offender 12 pence when they pay their fines. *Dal.* 119.

Or the Justices may record the riot, commit the offender, and after certifie the record to the Assises, Sessions or Kings Bench. *Dal.* 117.

The record may be delivered at the Sessions to the Clerk of the Peace, together with the residue of the

money remaining of the fine. *Dal.* 119.

Where Justices of P. are remiss in punishing the rioters, the Lords in the Star-chamber may and do often assesse greater fines for the same riot, *Dal.*120. *Cro.*63.a.nu.30.

7 If the riot was not committed in the presence of the Justices, or the rioters gone before their coming, two Justices at least within one moneth next after must enquire thereof by a Jury returned by the Sheriff, and record the riot being found, which is to remain with one of the said Justices. *Dal.* 117. *Lam.* 321.

*The form of such enquiry, vide Dal.*422. *Lam.*329.

Enquiry shall not be unless the rioters be gone. *Dal.*117.

It is not necessary that one of the Justices of Peace be of the Quorum. *Dal.*118. *Cro.*62.*b.* nu.25.

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100 pound: yet if the Jury be charged within the moneth, and have day after to give up the verdict, the statute is not broken. *Dal.*118. *Lam.*322.

At the inquiry the Sheriff or Undersheriff must be present but then as Ministers only. *Dal.*118. *La* 321.

The Justices assemble to enquire within the moneth, the parties agree, and the Justices dismiss thereupon the Jury, the Justices shall be fined, though none will solicite the Inquest, or give evidence to the Jury; for the Justices ought to proceed *ex officio*, seeing some of the Jury may have knowledge of the riot, and they ought to make proclamation if any will give evidence. *Dal.*118. *Lam.*322.

If at the parties request the Justices dismiss the Jury without enquiry, they are fineable in the Star-chamber to the King. *Dal.*118 *P. R.*29.

The Justices may binde to the good behaviour the parties complaing of the riot, who caused them

to

to meet and will not prosecute for the King, but have agreed it. *Dal.* 111.

Though the Iustices go not to see the riot yet they may enquire within a moneth after. *Lam.* 321.

8 After enquiry had and the riot found, the Iustices have power to hear and determine the same. (*viz.*) First to make out proces against the offenders under their own test. Secondly, to assesse the fine. Thirdly, to commit till they have payed the fine. Fourthly to deliver them after payment of their fine or suretie taken by recognisance, or otherwise they may receive their traverse, if the matter will serve and dismis them. *Dal.* 119. *Lam.* 323. *Br. Impris.* 100.

But the Justices should send such indictment or inquisition to the next Quarter Sessions or into the Kings Bench together with the said traverse there to be tried *P. R.* 30. *Dal.* 119.

9 If the riot upon enquiry cannot be found, the Justices and Sheriff must certifie into the Star-chamber, or Councell-board, or Kings Bench, the whole fact and circumstance, with the names of the offenders *sub pœna*, *Dal.* 120. *Lam.* 323, 324. *Præmunire Br.* 1.

The certificate must be made within a moneth after the enquiry, or else it is of no force. *Dal.* 121. *Lam.* 324.

Though two Justices with the Sheriff see the riot, yet two other Justices, may make the enquiry, and they all together, or the first two, or last two, with the Sheriff, or Undersheriff, may make the certificate. *Dal.* 121. *Lam.* 325.

Where the severall certificates be made, or certificate and enquiry do disagree, the best for the King shall be preferred. *Dal.* 121. *Lam.* 325.

If the Jury finde but some guilty the Justices may certifie the rest. *Dal.* 121. *Lam.* 325.

Any materiall thing left out in the inquisition, may be supplyed in the certificate. *Dal.* 121.

Quære if after enquiry and before certificate the Sheriff die, or one of the Justices be put out of Commission, whether a certificate can be made. *Dal.* 121. *Vide Lam.* 326.

Upon the certificate of two Justices and the Sheriff, the Lord Chancellour may grant a *Capias* to attach the offenders. *Dal.* 121 *Lam.* 313.

Upon default of the Justices and Sheriff in not executing the statute 13 *H.*4. *c.*7. the party grieved may have a Commission out of the Chancery, to enquire of the riot, as also of the Iustices and Sheriffs default. *Dal.* 121.

"Also the Lord Chancellour may send his writ to "the Iustices and Sheriff to execute the statute of "13 *H.*4. *c.*7. *Dal.* 121.

"The Iustices and other officers shall do their offices at the Kings charge in going, carrying and "returning, in the doing of their said offices, by "payment thereof to be made by the Sheriff for the "time being, by Indenture betwixt him and the said "Iustices and other officers aforesaid to be made "of the payment thereof, whereof the Sheriff upon "his accompt in the Exchequer shall be allowed. "2 *H.*5. *c.*8.

"The Sheriff is to return 24. whereof every one "hath lands and tenements within the same Shire of "20 *s. per annum* of charter lands, or 26. *s.* 8. *d.* of copihold, or of both *ultra vetrisas*; and must return "for issues upon every one at the first day 20 *s.* at "the second 40 shill. if they do not appear and be "sworn the first day. And the Sheriff or Under-"sheriff not returning persons sufficient, loseth for "every one 20 *l.* to the King. 19 *H.*7. *c.*13.

"If the riot, rout or unlawfull assembly be not "found by the Iury by reason of any mainrenance "or embracery of the Iuries: the Iust. Sheriff or "Under-sheriff, (besides such certificate to be made "by 13 *H.*4.) shall, in the same certificate, certifie the

names

"names of the maintainers or embracers, upon "pain of every Iuſtice, Sheriff or Under ſheriff 20 "l. (if they have not reaſonable excuſe) which cer- "tificate ſhall be of force, as if the matter therein "found were found by the verdict of twelve men. "And every maintainer and embracer forfeiteth "twenty pound, and to be committed to ward, to "remain during the diſcretion of the Iuſtices. 19 H. "7. cap. 13.

"Indictment of a riot is not good unleſs it ſay "*contra formam ſtatuti inde editi & proviſi. Lit.* 102. "*a* nu. 19.

Rivers.

Every Iuſtice of Peace is a conſervatour of rivers within his county, and may ſurvey the wears in rivers that they be of reaſonable wideneſs. *Lam.* 189.

Robbery.

If any man ſhall diſcover to a Iuſt. of P. or other miniſter of Iuſtice, any perſon that hath or ſhall commit any robbery on the Highway, or burglary, or that hath or ſhall felonioufly break any manſion houſe, or uſe there any violence upon any perſon, or take any money or goods, and ſhall apprehend, or procure to be apprehended any ſuch offender, ſhall have the reward of 10 l. upon conviction: And the Sheriff upon Certificate thereof from the Iudge or two Iuſtices to make payment thereof and to be allowed it in his accompt.

And if any perſon who is guilty of any the ſaid crimes ſhall reveal his complices, or ſuch offenders to the Councell of State, or to any Iudge, or Iuſtice of Peace ſo as the parties diſcovered ſhall be duly convicted: Then the Councell of State, Iudge or Iuſtice to whom ſuch diſcovery ſhall be made, may Reprieve, and reward as aforeſaid to be paid by the Sheriff where the offence was done, or the party convicted.

The like reward for discovering or apprehending of Moss troopers upon the borders of England or Scotland.

This Act to continue in force till the 21 of *Octob.* 1656. *Acts* 21. *October* 1653.

Robbery is a violent taking away of any goods from any mans person, with intent to steal them, and putting him in fear thereby, though the thing taken be but to the value of an half peny. *Cro.* 33. *b.* nu. 1. *Lam.* 267 *Dal.* 260.

But if a felon take money from me in the highway, and shall not put me in fear, it is not robbery. *Dal.* 260. *Cro.* 34 *b.* nu. 12. *Lam.* 266.

If a theef take nothing from my person, but assaulteth me, whereby he getteth any thing from me, it is robbery. *Dal* 260. As.

1 I cast my purse on the ground, and he taketh it away. *Lam.* 268. *Dal.* 261.

2 After assault he prayeth me to give him a peny, and I do so. *Dal.* 261.

3 If upon assault I deliver my purse. *Dal.* 261. *Cro.* 34 *b.* nu. 10. *Lam.* 267, 268.

4 If flying from a thief, I cast my purse into a bush, and he doth afterwards take it away. *Dal.* 261. *Cro* 35 *a.* nu. 10. *Lam.* 268.

5 If upon assault I fly away, and my hat fall, and the thief carry it away. *Cro* 35. *a.* nu. 18. *Dal.* 261.

6 If a thief bid me deliver my purse, (without any force used) and I deliver it, and he finding but two shillings in it, delivers it again. *Cro* 34. *b.* nu. 10. *Dal.* 261.

7 If by threats he compell me to swear to bring him money, and afterward I bring him the money accordingly. *Dal. ibid. Lam.* 268.

In some casis it is robbery, though the thief neither take it from my person, nor assault me.

As, 1 A thief taketh my goods openly in my presence

sence against my will, the fear is the like as if it had been from my person. *Cro.* 34. *a.* nu. 5. *Lam.* 269. *Dal.* 261.

2 To take a horse or a beast out of my pasture, I looking on, if the felon put me in fear. *Dal. ibid. Cro.* 34. *b.* nu. 5.

3 To make it robbery, the person must be put in fear. *Cro.* 34 *b.* nu. 12. *Dal.* 261.

4. Two come to rob me, and one acteth it, being out of the sight of the other, who after returneth to him; it is robbery in both. *Cro.* 34. *a.* nu. 10. *Lam.* 270. 28 *El. Pudseys case. Dal.* 262

To assault one to rob him without taking any thing, is not robbery. *Cro.* 34. *a* nu. 9. *Dal.* 261.

After a robbery committed, the hundred must answer the loss if the robbers be not taken within 40 dayes: if it be done in the division of two hundreds, both hundreds and the franchises within them must be answerable, and the hundred wherein defect of fresh suit is, the one moity. *Dal* 231. 27 *El. c.* 13.

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20 dayes next before the action brought, upon his corporall oath before some one J. of P. of the County where the robbery was committed, whether he doth know any of them that did the robbery; upon which examination, if he confess he knoweth any of them, then shall he before such action brought, enter into recognisance before the said Justice, effectually to prosecute such persons by indictment or otherwise according to the due course of the laws of this Realm. 27 *El. c.* 13. *Lam.* 202. *Dal. ibid.*

After robbery committed, the robbed shall not recover against the hundred, except 1 with all convenient speed he give notice of the robbery to some inhabitant near to the place where the robbery was committed.

2 He commence his action within a year and a day next after such robbery commited.

3 He be examined *ut supra*, before a Justice of Peace. *Dal.* 131.

Any two Justices of Peace in the hundred, one being of the Quorum, may assesse all towns and Parishes in the said hundred and liberties therein, upon recovery and execution had against any of the hundred, towards an equall contribution; which money the Constable must deliver to the same Justices within ten days after collection, and they upon request, to those to whose use it was collected. *Dal.* 132. *Cro.* 197. *a.*

A person coming to inhabit after the robbery and judgement given is not chargeable to be taken in execution, *Deans* case 10. *Caro. Com. B.*

But a person coming after to inhabit is assessable because the Countrey is chargeable at the time of the assessement, and not the persons which were there at the time of the robbery committed: As Justice *Berkley* said, and the Court seemed to agree in sir *John Comp.* case *Pasch.* 15. *Caro.* in the Kings Bench, *Quære* the difference. *Dalton* the last 153.

And the hundred shall be assessed in like sort in default of pursuit of fresh Hue and Cry. *Dal. ibid.*

Robbery in a house doth not charge the hundred, whether it be done in the day or in the night. *ibid.*

The hundred is discharged upon taking of any of the offenders by pursuit, *Dal.* 133. so if the party robbed take any of the offenders after Hue and Cry made. *Dal. ibid.*

The party robbed must commence his action within 20 days next after his examination taken before the Justice of Peace 36. *Eliz. Dews* case. *ibid.* 154.

Robbing of an house.

1 Robbing a house or any out-house, as a barn or sta-

be

ſtable in the day, to the value of five ſhillings.

2 Robbing a houſe by day or by night, any perſon being therein, and thereby put in fear.

3 Robbing any perſon in any part of his dwelling houſe, the owner or dweller, wife, children, or ſervants being in any place within the precinct of the ſame, ſleeping or waking.

4 Robbing any booth or tent in fair or market, the owner, his wife, children or ſervants being in the ſame ſleeping or waking. *All theſe are penall as Burglary. Dal.* 287. *Lam.* 265. 39 *El.c.* 15. 21 *H.*8. *c.* 1. 5 *E.*6. *cap.*9.

Rogues.

All perſons hereunder mentioned, being above the age of 7 years, may be puniſhed as rogues. *Dal.*123. 39 *El.c* 4.

1 All going about begging upon any pretence or colour, though licenſed by any ſubject, except in ſome particular caſes after mentioned. *Dal.ibid. Lam.* 442.

2 All going about the countrey uſing any ſubtile craft or unlawfull games, as fortunetellers, juglers. *Dal.ibid.*

3 All proctours, patent gatherers, or collectors for priſons and hoſpitals. *Lam.*442. *Dal.ibid.*

4 All fencers, bearwards, common players of interludes, and minſtrels wandring abroad. *Dal. ibid. Lam.*443. 1 *Jac.c.*7.

5 All pedlers, pety chapmen, tinkers, and glaſſemen wandring abroad. 1 *Jac.c.*7. *Dal.ibid. Lam.* 443. 21 *Jac.c.*28.

6 All wandring labourers able in body, refuſing to work for reaſonable wages, having nothing but labour to maintain themſelves *Dal.*124 *Lam* 443.

But ſuch as are of any pariſh able to work, and do not wander, but refuſe to work for the uſuall wages taxed

taxed in those parts, are to be sent to the house of correction. *Dal. ibid.*

7 Poor of the parish begging otherwise then is appointed them, or begging by highways, *ibid.* are to be sent to the house of correction.

8 All pretending to be Ægyptians, not being felons. *Dal. ibid. Lam.* 443.

9 Souldiers or mariners that beg, except souldiers or mariners having a testimoniall from a Justice of Peace near the place of their landing, with the place of their dwelling or birth to which they are to pass, and a convenient time limited for their travell, and pursuing the said license 39 *El.* 2. *c.* 4. or do counterfeit any certificate from their Generall, Governour, Captain, Lieutenant, Marshall, Deputy or Admirall. *Dal.* 124.

10 Diseased persons travelling to the Baths, and licensed if they beg, or not licensed by two Justices, or not returning as they are limited. *Dal.* 124. *Lam.* 443.

11 A rogue once whipped, not performing the order appointed by his testimoniall. *Dal.* 124.

12 A rogue going with a generall pasport, not directed from parish to parish. *Dal. ibid.*

So a rogue carrying his own pasport without a guide. *Dal.* 124.

13 Servant departing out of service without testimoniall, 5 *El. c.* 4. or taken with counterfeited testimoniall. *Dal.* 124.

14 Persons infected with the Plague, or dwelling in infected houses, going abroad contrary to order, 1 *Jac. c.* 31. *Dal. ibid.*

15 Persons able to labour and relieve themselves and families, that run away or threaten to run away and leave their charge to the Parish. 7 *Jac. c.* 4. *Dal.* 125. 21 *Jac. c.* 28.

16 Any calling himself a scholar, that hath gone about begging. *Lam.* 443.

17 Any pretending loss by fire or otherwise, that wandring beggeth. *Lam.* 443.

18 Any

18 Any delivered out of gaol, that hath begged for fees. *Lam.* 443.

Any Justice of Peace may appoint any person to be openly whipped naked, even unto bleeding, that shall be taken begging, wandring, or misordering himself, and is declared by the statute 39 *El.* 4. to be a rogue, vagabond, or sturdy begger, and shall cause him so whipped to be sent from Parish to Parish by the officers of the same, the next way to the Parish where such person was born, if it can be known; if not, to the Parish where such rogue last dwelt before the punishment by the space of a year, there to labour; or not being known where he was born or dwelt, then to the Parish through which he last passed without such punishment, to whom the Justice shall under his hand and seal make a testimoniall witnessing his punishment, day and place thereof, and whither he is limited to travell, and by what time. And in case such place of birth and last dwelling be not found nor known, then such person shall by the officer of such village through which he last passed without punishment, be conveyed to the house of correction of the limit, or to the common gaol, 39 *Eliz. c.* 4. there to remain in work untill such person be placed in service for one years continuance, or not being able of body, till such person be placed in some almshouse of that place or county. *Lam.* 204, 205.

"The like may be done by Constable assisted with "the advice of the Minister, and one other of the "Parish 39 *Eliz. c.* 4.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house of correction in the county to which he is sent; and if there be none there, then to the gaol untill the next Sessions: so if he misreport the place of his last dwelling by the space of a year, if it appear not where he was born. *Lam.* 207. *Ref.* 1, 2. *Dal.* 128.

Husband and wife having an house, rogue about, they

they must be sent to the town where the house is; and so of an inmate. *Lam.*207. *Ref*3. *Dal.*125.

Wife, and children under 7 years being vagrant, are to be placed with the husband; if the husband be dead, then where they were born or dwelt last. *Lam. ibid. Ref.*4,9,10. *Dal.*125.

Children vagrant above 7 years old must be sent to the place of their birth, *Dal.*125. *Lam.*207 *Ref.*4.

Vagrant parents, with their children under 7 years of age, being once placed at the place of birth of their parents or last dwelling, their parents dying after, or running away, the children once settled must still remain there. *Dal.* 125. *Ref.* 4. *Lam.*207.

Wife vagrant is to be sent to her husband though he be but a servant. *Lam.*208. *Ref.*5. *Dal.*125.

Rogue, whose place of birth or dwelling cannot be known, hath wife and children under 7 years of age, they must be sent with the husband to the place where they were last suffered to pass unpunished, and the children must be relieved by the work of the parents though the parents be sent to the house of correction. *Lam.*208. *Ref.*6.

Rogue sent to a town, and refused by the Churchwardens and Overseers to whom he is to be offered, is a forfeiture of five pound in the refuser. *Lam.* 210. *Ref.*12,14. *Dalt.*128.

"Any hindering the execution of the law of "39 *Eliz.* or any part thereof for the conveying "of rogues, forfeiteth five pounds. And any two "Justices may binde such offender to the good be-"haviour, and upon confession of the offender or "oath of two may by warrant under their hands and "seals cause the said summe of 5 pound to be levyed "by distress and sale of the offenders goods. *Dal.* "128. 39 *El.c.*4.

Rogue sent from the place where he is taken, by a generall pasport, without conveying him from Parish to Parish, is a let in the conveying of rogues, and

and a forfeiture of 5 pound. *Lam.* 210. *Ref.* 13. *Dal.* 128.

Rogue going with such a passport, continuing a rogue, is to be punished by whipping. *ibid.*

By parents is to be understood father or grandfather, mother or grandmother, being able persons. *Lam.* 210 *Ref.* 16.

By children, any child or grandchild being unable. *Lam.* 210 *Ref.* 15.

Diseased persons living of alms, and travellers to Bath or Buxton for remedy, are to be licensed thereto by two Justices of Peace, 39 *El. c.* 4. *Lam.* 332. yet may not beg, but must be provided of maintenance for their travell. *Dal.* 124.

Forfeiture of offences against the statute 39 *El. c.* 4. upon conviction by confession or by two witnesses before two Justices of Peace, they may cause the same to be levied by warrant under their hands and seals by distress and sale of the offenders goods. 39 *El. c.* 4. *Lam.* 331. See 1 *Jac. c.* 7. *Dal.* 129.

All questions growing upon the statute of rogues, may be heard and determined by two Justices of Peace, whereof one of the Quorum, *Dal.* 129. 39 *Eliz. c.* 4.

At Summer Assises at *Royston* 1630. Sir *Francis Harvey* delivered these Rules.

1 That now no pass is to be allowed to these windering people, and it was agreed by Sr *Nicholas Hide* at *Cambridge* Assises 1630.

2 If any Alehouse-keeper, or other person shall lodge a rogue, this is a relieving them, and contrary to 1 *Jac.* and a forfeiture of 10 shillings.

3 Giving of money by a Constable to a Rogue is a Relieving of him within this statute, and a forfeiture of 10 shillings *Dalton* the last 150.

Constable or tything-man not doing his endeavour to apprehend rogues within their limits, or wilfully suffering them to escape unpunished, forfeiteth 20 shillings

20 shilling for every offence, *Dal.* 128. and 5 pound if they do not convey them away toward their dwelling or place of birth. 39 *Eliz. cap* 4. *Lam.* 444. 1 *Jac. c.* 7. *Dal.* 129.

Minister of the Parish not keeping a register of the testimoniall of rogues punished in his Parish, and conveyed thence, loseth for every default 5 shillings. 39 *El. c.* 4 *Dal.* 129.

Every one is to carry to the Constable such beggers as they shall know to come to their doors for alms, or lose 10 shillings. 1 *Jac. c.* 7. *Dal.* 129.

Justices of Peace are to meet twice a year at the least, and ofner if occasion be, in their severall divisions, for the executing of the statute against vagabonds, and four or five days before by warrant to command the Constables of hundreds or towns by assistance of some of every town, to make a generall privy search by night for finding and apprehending rogues to be brought before the Just. at their meeting by them, and punished, or sent to the house of correction. 7 *Jac. c.* 4. *Dal.* 130. 21 *Jac. c.* 28.

Constables at every meeting of the Justices of Peace for the execution of the statute of rogues, are to give an account upon oath in writing, and under the hand of the Minister of the Parish, what rogues, &c. they have apprehended both in the same search, and also between every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, be fined under 40 shillings as by the most of the Justices shall be assessed. 7 *Jac. c.* 4 *Dal.* 130.

No man is to be put out of the town where he dwels, or sent to his place of birth or last habitation, but onely a vagrant rogue. *Dal.* 126. *Ref.* 9. *Lam.* 209.

So of them whose terms of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent *Dal.* 126.

Dangerous

Dangerous rogues are to be banished, or condemned to the gallies by the Justices at their Quarter Sessions. 39 *El.c* 4. *Lam.* 427. *Dal.* 287.

Rogues by judgement of most of the Just. of peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R. and then to be sent to their dwelling; if they have none, then to their last dwelling place where they dwelt for a year; or if that cannot be known, to their places of birth. 1 *Jac.c.* 7. If he offend again in begging or wandring, it is felony without clergy, 1 *Jac. cap.*7 *Lam.* 428. *Dal.* 287.

"Souldiers and mariners having a testimoniall, "under the hand of the Justice next to his landing "place, of the time and place of his landing, limit-"ing the place to which he is to pass, and the time; "if he pursue the said license, he may aske and take "such necessary relief as any will give him, 39 *El.* "*c.* 17. *Lam.* 303. *Dal.* 126.

"Two Justices of Peace send to the house of cor-"rection, as a sturdy rogue, a person able to work, "threatning to run away and leave his family upon "the Parish, being proved by the oath of two before "the said Justices, unless he can put in sufficient "bond for discharge of the Parish, 7 *Jac. c.* 4. *Lam.* "331.

"He which runneth away and leaveth his charge "to the Parish, is an incorrigible rogue, 7 *Jac.c.*4.

Rome, *vide* Pope Co. 11. 36.

Rout.

Rout is where three or more persons be disorderly assembled to commit any act with force, whether they put in execution their purpose or no, if they so do go, ride, or move forward after their first meeting. *Lam.* 176. *Dal.* 221.

" A rout is onely by some opinions, where three
" or more do assemble for their own common quar-
" rell: As, The inhabitants of a town assemble to
" pull down a house, wall, pale, ditch, or other in-
" closure, pretending to have title of common, or
" a way there, or to beat a man that hath done pub-
" lick offence. *Dal.* 221, 222.

Sacriledge.

SAcriledge is the felonious taking of goods out of any Church or Chappell. *Lam.* 420.

Sacraments.

Three Justices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and binde them all to give evidence at the day of tryall; and they being found guilty shall be imprisoned and fined, 1 *Ed.6.c.*1. Dal. 134. Quere. *Lam.*416,366.

Three Justices of Peace, one being of the Quorum, may award against one indicted upon the statute of 1 *E.6.c.*1. for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias utlagat*, into any shire, 1 *Ed.6. cap.*1.

" Justices of Peace in their Quarter Sessions may
" enquire, hear and determine of all recusants and
" offences, as well for not receiving the Sacrament
" according to 3 *Jac.* 4. as not repairing to Church.
" And in their Sessions (where there shall be in-
" dictment taken for not repairing to Church, or
" not receiving the Sacrament) to make Proclama-
" tion to render their bodies to the Sheriff before
" the next Sessions, and in default, a conviction,
" 3 *Jac.c* 4. *Lam.*616.

Salmons,

Salmons, *vide* Fish.

Saltpeturmen.

Saltpetermen cannot dig in mansion house of any subject without his assent, in regard of the danger that may happen thereby in the night time to the owner, his family and goods by theeves and other malefactors, *Co.* 11.82. *Dal.* 209. *Vide* House.

Shoolmaster.

To keep or maintain a Schoolmaster which resorteth not to the Church, or is not allowed by the Bishop or Ordinary of the Dioceſs, the maintainer forfeits ten pounds for each moneth, and the Schoolmaster to be impriſoned for a year without bail, and diſabled, 23 *El cap. Lam.* 419.

Any keeping a School, or being a Schoolmaster out of the Univerſity, except in publick Grammer-ſchool, and except in ſuch Noblemen and Gentlemens houſes as are not recuſants, and licenſed by the Archbiſhop or Guardian of the Dioceſs, both keeper and Schoolmaster forfeits 40 ſhillings a day, 1 *Jac.* c. 4.

Sedicious ſectaries.

One Juſtice of Peace may within three moneths after the conviction of any ſedicious ſectary or Popiſh Recuſant deſcribed in the ſtatute of 35 *El. ca.* 1. require the ſubmiſſion of him to conformity, and in default of ſuch ſubmiſſion, may require him to abjure the Realm; and if he refuſe, or after return without licenſe, it is felony, 39 *El.* c. 1 & 2. *Lam.* 204.

Sermon,

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Servingmen, *vide* Testimoniall.

Sessions of the Peace.

The Sessions of the Peace is an assembly of any two or more Justices of Peace, one being of the Quorum, at a certain day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to hear and determine according to their power of causes within the Commission and Statute referred to their charge. *Lam.* 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing, *Lam.* 380, 381.

Summons of the Sessions is usually by precept written to the Sheriff, and by him to be returned at the Sessions. *Lam.* 381.

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the Quorum, but not the *Custos Rotulorum* alone; & summons cannot be discharged by *Supersedeas* of all the other Justices, but by *Supersedeas* out of the Chancery, *Lam.* 382, 383.

Sessions held by one Justice of Peace is not good although it were summoned by two, and styled by their names, but by two sufficient Justices it is good, though it be styled by the name of three, *Lam.* 383.

Quarter Sessions are to be held four times in the year, (*viz.*) the first week after S. Michael, the Epiphany, the clause of Easter, after the translation of Saint

Saint Thomas the Martyr, which is 7 *July* 2 *H.* 5. *c.* 4. *Lam.* 597.

"The Eaſter Seſſions by 33 *H.* 8. *c.* 10. are to be "holden the Tueſday next after Low-Sunday, *Lam.* "605.

"Juſtices of Peace ſhall hold their Seſſions four "times in the year, *viz.* Once within the Octaves "of the Epiphany: the ſecond, in the ſecond week "of Lent: the third, between the feaſts of Pentecoſt "and S. John Baptiſt: the fourth, within the Octaves "of S. Michael. 36 *Ed.* 3. *c.* 12. *Cro.* 123. *b.* nu. 16.

"Where *Crompton* noteth, that by 12 *R.* 2. *c.* 10. it "is ordained that the Quarter Seſſions ſhould be "held every quarter of a year at the leaſt, and three "days if need be; by which it appeareth that the "uſuall day is not of neceſſity, ſo it be kept within "a quarter of a year. *Cro. ibid.*

"By the ſtat. 2 *H.* 5. *c.* 4. Juſtices of Peace ſhall "keep their Seſſions four times in the year, *viz.* in "firſt week after S. Michael, in the firſt week after "the Epiphany, in the firſt week *poſt clauſ. Paſchæ*, "and in the firſt week after the Tranſlation of S. "Thomas the Martyr, which is the 7 of July, and "oftner if need be. *Cro.* 123. *b.* nu. 17.

"*Cro.* 123. *b.* nu. 18. ſaith, that upon the ſtat. of "17 *R.* 2. *c.* 9. (which permitteth to keep Seſſions ſo "oft as is expedient) that in Kent they keep their "Seſſions at other times then the times appointed by "2 *H.* 5. *c.* 4. and that it is good.

The place where Seſſions are to be holden is arbitrable, and therefore though by ſummons they be to be kept in one place, yet they may be kept in another; but then there can be no amerciament for default of appearance, *Lam.* 383, 384.

Two Seſſions at one time for one county lawfully ſummoned at two places, both are good, and appearance at one ſhall excuſe default of appearance at the other, and preſentments taken before either of them ſhall be good. *Lam.* 384.

At

At a generall Sessions all matters enquirable by Justices of Peace, either by their Commission, or by statute, ought to be given in charge, otherwise at a speciall Sessions, *Lam.* 623. and may be held three days, 606 12 *R.*2.*c.*10.

Two sorts of men owe their ordinary attendance at the Quarter Sessions, (*viz.*) officers and ministers of the Court, and Jurors of the County, *Lam.* 386.

Officers are the *Custos Rotulorum*, where he ought to attend by himself or his deputy, *Lam.*387.

The Clerk of the Peace, *Lam.*393.

The Sheriff, *Lam.*395.

The Coroners, *Lam.*394.

"Minsters, as Bailiffs of Franchises, Constables "of Hundreds, the Ordinary, *Lam.* 395. Jurors for "enquiry and tryall, *Lam.* 396.

The Justices of Peace if need require, may keep a speciall Sessions by vertue of their commission, or by the statute 2 *H.*5.*c.*4. *Lam.* 623.

Summons of a speciall Sessions is for the most part for some speciall enquiry, and not to the generall service of the commission, *Lam.*623.

All matters within the commission or statute may at a speciall Sessions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them, *Lam.*623,624.

If two Justices of the Peace, one being of the Quorum, make a precept to the Sheriff for the holding a Sessions at such a place and day, and to return a Jury before them, other Justices cannot by their *Supersedeas* to the Sheriff inhibit him. *Cro.* 122. *b.* but the King by his writ of *Supersedeas* may discharge it. *ibid.*

A man is bound to appear before a Justice of Peace within forty days after, in the mean time a generall Sessions is kept, he ought to appear before the Justices at the Sessions. *Cro.*123. *a.*nu.8.

A

A Juſtice commands one on pain of 10 pound by his precept to appear at the next Seſſions, and he doth not, no *Scire facias* ſhall go againſt him more then upon a *Sub pœna*, but it ſeemeth he may be attached upon a contempt. *Cro.* 123. *a.* nu 9.

"All that come to the Seſſions for publick ſervice, or upon compulſion, upon complaint and "examination of the matter upon oath ſhall be freed "from any arreſt upon Originall proceſs, *Lam.* 402. "*Cro.* 190. *b.*

"Juſtice of Peace may record a force, if he be "diſturbed in coming to the Seſſions, ſo that he dare "not go to the Seſſions, and they ſhall be convicted "by that record. *Cro.* 190. *b.*

Sewers.

Commiſſion of ſewers being expired, ſix Juſtices of Peace, two being of the Quorum, may for one year after execute the laws of Commiſſioners of ſewers, unleſs a new be publiſhed. 13 *El. c.* 9.

Sheep.

To tranſport ſheep beyond the ſeas without licenſe, or to procure the ſame, is felony for the ſecond offence, 23 *H.* 8. *c.* 16. 8 *Eliz. c.* 3. *Lam.* 227, 425.

Any bringing, ſending, or receiving into any bottom any ſheep alive out of the Kings dominions, or procuring the ſame, loſeth his goods, is to be impriſoned for a year, and then in open market to loſe his left hand. 8 *Eliz. c.* 3. *Lam.* 456, 457.

Any keeping at one time above 2000 ſheep of all ſorts againſt the purport of the ſtatute, loſeth 3 ſhillings 4 pence for every ſheep above 2000. 28 *H.* 8. *cap.* 13.

Sheriff.

The *Custos Rotulorum*, or eldest of the Quorum in his absence, is to appoint at Michaelmas Sessions, two Justices of Peace, whereof one of the Quorum, to have the oversight and controlment of the Sheriff, Undersheriff, their officers and deputies, and of their books and amerciaments in their county Courts: and either of these two Justices, or one Justice of the Peace, may examine the Sheriff or Undersheriff and plaintiff concerning the taking and entring plaints in their Courts and books against the statute, 11 *H.* 7. *c.* 15 *Dal.* 136. *Lam.* 201. 295. 600.

The particulars are, *Dal.* 137. *Lam.* 431.

1 If any plaints be entred in their books in any mans name, the plaintiff or sufficient Atturney not being in Court.

2 If the plaintiff finde not pledges to pursue his plaint, (*viz.*) such as are known in that countrey.

3 If they enter more plaints then one for one trespass or contract.

4 If they enter more plaints then the plaintiff supposeth he hath cause of action for against the defendant.

If upon examination the Justices finde any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shillings to the King, and to the informer for every default, and the Justices must certifie the examination to the exchequer within a quarter of a year, on pain of 40 shillings, *Dal.* 137.

The like for Bailiffs of hundreds in not warning the defendants to appear, *Dalt. ibid.*

Sheriff shall make no estreats to levy their Sheriffs amerciaments untill the two Justices have had a view and oversight of the books, and the said estreats shall be indented betwixt the said Justices and Sheriffs, or Under-

Undersheriffs under their seals, *Dal. ibid.*

The said two Justices or one of them may examine the defaults of collectors of Sheriffs amerciaments, whose finding of default is a sufficient conviction and forfeiture of forty shillings, the examination to be certified into the Exchequer, *Dal. ibid.*

The said Justices, upon information of the party grieved may make like process as in action of trespass against the Sheriff, &c. to appear then to answer the said information or suggestion, *Dal.* 138.

Sheriff ought to be at the Sessions to return his precept, and keep the prisoners, *Lam.* 395.

In these cases following the Sheriff, &c. doth forfeit 40 *pounds, and treble damages to the party grieved.* 23 Hen. 6. c. 10. Lam. 430, 431.

1 Sheriff that letteth his Bailywicks or any of his hundreds.

2 Or returneth in any pannels any Bailiffs, officers, servants, or servants servants.

3 Or refuseth to bail those that are bailable, offering sufficient surety.

4 Or taketh any obligation by colour of his office, but onely to himself, and upon the name of his office, and upon condition onely to appear according to the writ or warrant.

5 Or having taken for an arrest above 20 pence.

6 Or above 4 pence for any obligation, warrant, or precept.

7 "Or he or any other minister having taken any "thing for making any return or pannell.

8 Or above 4 pence for the copy of a pannell.

9 Bailiff for taking above four pence for making an arrest.

10 Gaoler taking above four pence of any com

mitted to his ward upon arreſt or attachment.

11 Sheriff or his miniſters that ſhall levy any of the Kings debts, without ſhewing the party the eſtreats under the Exchequer ſeal, ſhall be fined and pay treble damages to the party, 7 *H.4.c.*3.42 *Ed.*3.*c.* 9.*Lam.* 432.

12 Sheriff or other his miniſter arreſting, impriſoning, ranſoming of, or levying any amerciaments by reaſon of any indictments or preſentments made in the Sheriffs turn, without proceſs firſt obtained from the Juſtices of Peace, or that hath not brought in ſuch indictments and preſentments to the Juſtices of the Peace at the next Seſſions, loſeth 10 pound. *Lam* 431.11 *Ed.*4.*c.*2.

Sheriff or any other who may make return of any writ, that returneth any Jurour, without true addition of the place of his abode, or within a year next before, or without ſome addition by which the Juror might be well known, loſeth 5 marks to the King, and 5 marks to the party, 27 *El.c.*7.*Lam.*432.

Sheriff or gaoler denying to receive felons by the delivery of any Conſtable or Townſhip, or having taken any thing for receiving ſuch, is fineable, 4 *E.*3.*cap.*10.*Lam.*434.

Sheriff, bailiff, or other officer or perſon, refuſing to pay over to the Churchwardens, &c. the moity of the forfeitures by the ſtatute of 4 *Jac.* againſt uttering of beer or ale to alehouſe-keepers unlicenſed, forfeiteth double value, 4 *Jac.c.*4.*Lam.*434.

Juſtice of Peace being choſen Sheriff, his authority of Juſtice is ſuſpended during his Sheriffwick; but after another is choſen and ſworn, his authority as a Juſtice of Peace is as it was before without any new oath, except he be left out of the commiſſion, *Dal.* 11.& 12.*Cro.*121.*a.*nu.13, 14.

Shoes.

Making ſhoes, pantofles, &c. contrary to the rules preſcribed in the ſtatute, loſeth 3 ſhillings 4 pence for every pair of ſhoes, &c. and the value of them, 1 *Jac. c.* 22. *Lam.* 465.

Shewing of boots, &c. on the Sunday, with intent to ſell them, loſeth 3 ſhillings 4 pence and the value of them, 1 *Jac. c.* 22. *Lam.* 466. *vide* Leather.

Shooting.

"Any under the degree of a Lord of the Parliament ſhooting within any city or town at any fowl "or other mark upon any Church or dove-coat, or "any ſhooting in any place any hayl-ſhot or moe "pellets then one at a time, every time offending "forfeiteth ten pound; and impriſonment for three "moneths, 2 *Ed.* 6. *c.* 14.

Vide Archery, Croſſe-bows, Partridges.

Silk, *vide* Apparell.

Sope, *vide* Veſſels.

Souldiers.

Souldier ſerving the King by ſea or land, doth willingly give, purloyn, or put away any horſe or harneſs wherewith he was ſet forth, (or being taken from other ſouldiers was appointed to him,) upon complaint thereof to a Juſtice of Peace, he ſhall be committed without bail, till he have made ſatisfaction, unleſs he have been formerly puniſhed by the Generall or other, or ſhew forth in writing under ſeal the lawfull loſs thereof. 2. & 3 *Ed.* 6. *c.* 1. *Lam.* 194.

Souldiers passing out of the realm to serve any forrain Prince, not having before their passage taken the oath of allegeance before the officer appointed thereunto, it is felony. 3 *Jac. c.* 4. *Dal.* 288.

Souldier being a Gentleman, or of a higher degree or Captain, or other officer in camp, passing to serve any forrain Prince, &c. before they be bound to the King with two sureties before the officer appointed, not to be reconciled to the Pope, &c. or to consent to any conspiracy against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felony. *ibid.*

Souldier entred upon record, and having taken presse-money, and that departeth without license, it is felony, 7 *H.* 7. *c.* 1. 3 *H.* 8. *c.* 5. *Dal.* 288. or if they depart without license after they have served in the Kings warrs, 2 *Ed.* 6. *c.* 2. *Dal. ibid.* So of mariners and gunners that have taken presse-money to serve the King on the sea, and come not unto, or depart from the Captain without license, it is felony. 5 *El. c.* 5. *Dal.* 288.

In these cases following, by the statute of 39 El. c. 17. *souldiers and mariners do become felons.* Dal. 288, 288.

Such which set not themselves to some lawfull course of life, but wander up and down idlely, not having a lawfull testimoniall (if they come from beyond sea) from some Justice of Peace near the place of their landing, expressing the place and time of their landing, the place which they are to pass and a time limited for their passage; or having such a testimoniall, if they shall exceed the time limited.

To forge or counterfeit such testimoniall, or to have a forged testimoniall, knowing that it is forged.

Or

Or being retained in ſervice after his arraignment &c. if he depart within the year without licenſe of his maſter.

Poor ſouldier, or mariner, or ſea-faring man ſuffering ſhipwrack, may have a licenſe from a Juſtice of Peace next to his landing, to paſs to the place of his repair, and may aske and receive neceſſary relief in his direct paſſage, within the time limited to him. 39 *El. c.* 4. 39 *El. c.* 17. *Dal.* 126, *Lam.* 303. 21 *Jac. cap.* 78.

Every Pariſh is to be taxed to the relief of diſabled ſouldiers, by the greater part of the Juſtices at their Quarter Seſſions next after Eaſter, ſo as no Pariſh be above ten pence, nor under two pence weekly to be paid, ſo as the totall ſumme in any county where there ſhall be above fifty Pariſhes, do not exceed ſix pence every Pariſh. 43 *Eliz. cap.* 3.

The ſaid taxation to be aſſeſſed within themſelves, and in default thereof by the Churchwardens and pety Conſtables or the greater part of them, in default thereof by the Juſtices or Juſtice of Peace dwelling in the ſame Pariſh, or if none be there, in the Pariſh next adjoyning. 43 *El. c.* 3.

In default of payment of the ſame aſſeſſe, the Churchwardens and pety Conſtables may levy it by diſtreſs and ſale, &c. and in their default the aforeſaid Juſtices or Juſtice of Peace. 43 *El. c.* 3.

The Churchwardens and pety Conſtables are to pay over their collections to the high Conſtable ten days before every Quarter Seſſions, and the high Conſtables at every Quarter Seſſions are to pay it over to the Treaſurer. *ibid.*

If any of them make default, then the Churchwardens or pety Conſtables forfeit 20 ſhillings, and every high Conſtable 40 ſhillings to be levied by the Treaſurer by diſtreſs and ſale for augmentation of the ſtock. 43. *El. c.* 3.

Treaſurer for maimed ſouldiers muſt be 10 pound

in lands or 15 pound in goods in the subsidue, and continue but for a year, and within ten days after Easter Sessions following to give account to his successor; in default thereof or for other misdemeanour in his office, to be fined five pound or above by the more part of the Justices of Peace. 43 *El. c.* 3.

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawfull certificate thereof by the generall muster-master or receiver of the muster-rolls, Treasurer, or Controller of the navy under his hand, is to come to the Treasurer of the county where he was prest, or if he were not pressed, then to the Treasurer of the county where he was born or last dwelt three years, if he be able to travel so far; or otherwise to the Treasurer of the County where he landed, by him to be relieved according to his discretion till the next Quarter Sessions, at which time the more part of the Justices may according to their discretions grant him a pension during his life, if the said pension be not duly revoked or altered. 43 *El. c.* 3.

Treasurers are to make payment quarterly of such pensions as shall be granted by the most of the Justices at the Quarter Sessions under their hands, and by them to be fined if they refuse to pay them, 43 *El. cap.* 3.

Pensions of souldiers and mariners, not having born offices, are not to be above 10 l. under the degree of a Lieutenant 15 l. a Lieutenant 20 l. 43 *El. c.* 3. Pensions are revocable or alterable at the discretion of the Justices in the Quarter Sessions. 43 *El. c.* 3.

Treasurer where any maimed souldier or mariner shall arrive upon certificate, (though not allowed) may give a testimoniall of his own allowance, and convenient relief to carry him to the next County, leading him to the place where the generall muster-master shall be: and so may the Treasurer of each County,

County, leading him thither and from thence to the County where he is to have his pension. 43 *El. c.* 3.

Treasurer is to enter into a book money received and disbursed, with the parties names and certificate to whom it was paid. 43 *El. c.* 3.

Treasurer not allowing a certificate in the act of 43 *El. c.* 3. expressed, must endorse the cause thereof on the certificate. 43 *El. c.* 3.

Souldier or mariner counterfeiteth a certificate, or having a pension beggeth, he shall lose his pension, and be adjudged a rogue. 43 *El. c.* 3.

Souldier or mariner that cannot be relieved in the county where he was pressed, by reason that the whole taxation is imployed, shall be relieved where he was born or dwelt the last 3 years at his election. 43 *El. cap* 3.

Overplus of the stock for maimed soudiers is to be imployed by the greater part of Justices at the Quarter Sessions, to such charitable uses as are set down in the statute for poor, except it be by them reserved for future pensions. 43 *El. c.* 3.

The souldier maimed, or disabled in body to work in the Parliament service in the warrs before *May* 1647. must, 1 go to the place where he was setled when he took up Arms; 2 he must procure a Certificate of his service, and of his hurt received, under the hand of his Captain or Commission-officer. 3 he must by his own oath, or by witnesses oaths prove the truth of such Certificate to the next Justices of the Peace.

Then the two next Justices of Peace to the place, &c. or if the Captains be dead upon the request of persons of Credit, may by warrant to the Treasurer assign him relief, till the next Quarter Sessions.

And concerning widows and orphans of souldiers slain in those warrs, the two next Justices may order the Treasurer what allowance to give them out of the surplus of the money after payment to the maim-

ed ſouldiers, which order the Treaſurer muſt obey.

Any two Juſtices by warrant under their hands may appoint the Treaſurer to pay what money they think fit; to any maimed ſouldier, or the widows, or orphans of ſouldiers (ſlain or dead in the Parliament ſervice,) that are in want: And the Juſtices are to acquaint the next Seſſions therewith, ſo that the ſame may be continued or determined, as they at the Seſſions ſhall think meet. *Ord. May* 1647. *Auguſt* 1647. *Decemb.* 1647.

Of Stage playes.

Players of Enterludes, and common Players are Rogues within 39 *Eliz. cap.* 4. & 7 *Jac. cap.* 4. and ſo to be puniſhed, though they be no wanderers, and have licenſe from the King, or any other perſon.

The Lord Major, and Juſtices of Peace of London, Weſtminſter, Midleſex, and Surry, or any two of them within their Iuriſdictions, may deface Stage-galleries, Boxes, &c. uſed for Stage-players, and within two moneths after the offence, cauſe to be apprehended and openly whipped in ſome market Town within their Iuriſdiction him that upon view or oath of two witneſſes ſhall act in any ſuch play, and the party offending to enter into recogniſance with two good ſureties never to offend ſo again, and upon refuſall to commit him to priſon. And for the ſecond offence to be puniſhed as an incorrigible Rogue.

All the money gathered of Commiſſioners to any ſuch Play, ſhall be forfeit, and paid to the Churchwardens of the place, to be diſpoſed to the uſe of the poor.

Any two Juſtices of Peace of that place upon complaint, and proof upon oath thereof, may by warrant under their hands and ſeals, command the Conſtables and Churchwardens of the place to le-

on the goods and chattels of him that received it, returning the surplus.

One Just. of Peace upon Confession of the party, or proof of one witness upon oath against any that hath been present at any enterlude, may send his warrant to the Churchwardens, or Constables of the Parish where the offence was, to levy five shillings to the use of the poor of the place where the offender lives, by distress, and sale of his goods, rendring the overplus. *Ord.* 11. *Febr.* 1647.

Star chamber.

The experience of the Star-chamber is the best guide and direction for a Justice of Peace. *Lam.* 175.

Stoln goods.

After attainder upon evidence by the owner, the stoln goods are to be restored to the owner by writ of restitution awarded by the Justices before whom the attainder was. 21 *H.* 8. *c.* 11. *Lam.* 586. *Dal.* 306. *Cro.* 191. *a.* *Vide* Restitution of stoln goods.

Stewards of Courts.

Stewards of the Sheriffs turn, Leet, or Pypowders, cannot grant surety of the Peace unless it be by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a Court Baron cannot do. *Lam.* 14. *Dal.* 2. 10 *H.* 6. 6. 7. *Br. Leet.* 36.

Stock of the ſhire.

The Pariſhioners, and in their default the Churchwardens and Conſtables are to aſſeſſe the tax impoſed upon the Pariſh by the Juſtices at Eaſter Seſſions, towards the relief of the priſoners in the Kings Bench, Marſhalſey, Hoſpitals, and other loſſes by fire, &c. In default of them, any Juſtice of Peace dwelling in that Pariſh, or (if none dwell there) the next Juſtice may aſſeſſe the ſame; and the ſame Juſtice of Peace or any other Juſtice of Peace in that limit, in default of the Churchwardens and Conſtables, may levy the ſame by diſtreſs and ſale of the offenders goods, rendring to the party the overplus, and in default of diſtreſs may commit ſuch perſons without bail till they pay the ſame. 43 *El. c.* 2. *Dal.* 139.

In all taxations obſerve theſe rules. *Dal. ibid.*

1 The moſt reaſonable taxation of land is by the yearly value, not the quantity.

2 He that occupieth lands in his own hands in ſeverall Pariſhes, ſhall be charged in every Pariſh proportionably for his land there.

3 The farmer ſhall be rated for the land, and not the leſſor.

4 A man is not to be rated for his farmerents, for that the occupier of the lands is chargeable for the ſame.

5 By goods in moſt caſes a man may be rated, as well as by lands, but not both by goods and lands.

6 A man ſhall be charged for goods onely in that town where the goods be at the time of aſſeſſement: the Conſtable and major part of the Pariſhioners, upon warning given in the Church, may make ſuch taxations by law. *Co.* 5. 67. *Br. Quin.* 4. & 6. *Dal.* 140.

The like may be done by the Churchwardens and the greater part of the Pariſhioners for Church-charges. *Dal. ibid.*

If

If the greater part will not meet, the officers and such as will meet may taxe. *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia. Dal.* 140. *Vide* Taxations.

Issues estreated upon the Parish may by order of Sessions be equally rated upon the inhabitants and be levied accordingly. *Ord.* 16. *May* 8. *Caro. Midlesex Dalton.* 162.

Subsidy.

Upon proof before two Justices of Peace that a subsidy man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices *Lam.* 336. *Dal.* 141.

Suggestion, *vide* Information.

Summons of the Sessions, *vide* Sessions.

Sunday.

All persons shall diligently and faithfully resort to their Parish Church or Chappel accustomed, or upon reasonable let to some usuall place where Common prayer shall be used upon every Sunday and other day ordained and used to be kept holy day, and then and there to abide orderly and soberly during the time of Common prayer, preaching, or other service of God, or lose 12 pence for every offence to be levied by the Churchwardens there, to the use of the poor by way of distress, 1 *El. c.* 2. *Dal.* 105. though he be Popish recusant convict or not convict. *ibid.*

If any subject do not resort and repair every Sunday to some Church or Chappel, or some usuall place appointed for Common prayer, and there hear divine

divine Service, according to the Statute, 1 *El. c.* 2. it ſhall be lawfull for a Juſtice of Peace of that limit, upon proof by confeſſion of the party, or oath of witneſs, to call the party before him; and if he or they make not a ſufficient excuſe, to the ſatisfaction of the ſaid Juſtice, then to give warrant to the Churchwardens of the ſaid Pariſh under his hand and ſeal, to levy 12 pence by diſtreſs to the uſe of the poor for every default; for want of diſtreſs, to commit the offender to priſon; every offender to be called in queſtion within one moneth after the offence. 3 *Jac. cap.* 4. *Lam.* 418.

None puniſhed according to the branch of the ſtatute of 3 *Jac. cap.* 4. ſhall be puniſhed by 1 *El. c.* 2. for the ſame offence. 3 *Jac. c.* 4.

There ſhall be no meeting, aſſemblies or concourſe of people for any ſports or paſtime out of their own Pariſhes on the Lords day, nor Bear-baiting, Bul-baiting, Interludes, common-playes, or other unlawfull exerciſes within their own Pariſhes, upon forfeiture of 3 ſhillings 4 pence to the uſe of the poor, upon view of one Juſtice of Peace, confeſſion of the party offending, or oath of one witneſs, to be levied by warrant of the ſaid Juſt. under his hand and ſeal to the Conſtable and Churchwardens; in default of diſtreſs, the offender to ſit in the ſtocks three hours. The offender to be queſtioned within one moneth. 1 *Car. c.* 1. *Dal.* 63.

Carriers, waggoners, waynmen, drovers, ſhall not travell with horſe, wagons, carts, or cattle upon Sunday, upon pain of twenty ſhillings for every offence. Neither ſhall any Butcher kill or ſell any victuall upon Sunday, on pain of 6 ſhillings 8 pence, upon view of one Juſtice of Peace, confeſſion of the party, or oath of two witneſſes, the penalty to be levyed by the Conſtable or Churchwardens to the uſe of the poor by warrant of any Juſtice of Peace by diſtreſs, or by any that will ſue for the ſame at the Quarter Seſſions

Sessions in the same county within 6 moneths, his reward not to be above the third part: 1 *Car.* 1 *Dal.* 134.

Shewing of boots on the Sunday, with intent to sell them, loseth 3 shillings 4 pence, and the value of the boots. 1 *Jac.c.* 22. *Lam.*466.

Sunday.

1 If any shall openly Cry, or set to sale any wares, fruits, or herbs, or goods whatsoever on that day (which ought to be spent in Religious duties) except for necessity in Inne, or victualling house, or selling of milk before nine in the morning, and after 4 in the afternoone from the 10 of September, to the 10 of March, and for the rest of the year before 8 in the morning, and afer 5 in the afternoone, upon pain to forfeit the thing cryed, or put to sale. And any Justice upon view, confession, or proof of one witness may grant a warrant to the Constables and Churchwardens where the offence was done to seiz the same to the use of the poor.

2 None may without reasonable cause, travell under pain of 10 shillings nor carry burden, or do worldly work under pain of 5 shillings, these penalties to be levied by distress and sale, &c. by warrant from one Justice and to be disposed of as in the Section next precedent, and if no distress 3 houres in the stocks.

3 If any keep, or be present at any wrastling, shooting, bowling, wake, &c. or other pastime whatsoever, any Justice may give a warrant, &c. as before to levy 5 shillings of any above 14 and of the governour of one under 14, 12 pence to the poors use, and if no distress, the party above 14 to sit in the stocks 3 hours, and in these cases the Justice may (if he finde cause) make allowance hereof what he de deemeth fit not exceeding a 3 part to the Informer.

4 Any

4 Any Justice may make the Constables or, &c. to seise, and publickly burn all books written against the morality of the 4 Commandment, or to countenance the Prophanation of the Sabbaoth.

5 The Justices must take order that all rogues, beggers, &c. on this day repair to some Church, and there continue during service.

6 And the Justices in their limits must for the stricter observation of that day take a monethly accompt of the observation of these matters.

7 Every high Constable, petty Constable, Headborough, or other officers, &c. or Governour of the company of watermen upon their knowledge of any offence, and any other person, by warrant from a Iustice, Maior, &c. may secure any wares, or goods cried, or put to sale against these statutes. *Act.* 19. *April.* 1650.

8 No Traveller, Waggoner, Butcher, Drover, Highler, or their servant shall come into their Inne after 12 on Saturday night, nor depart from thence untill after one on Munday morning without cause to be allowed by the Justice or head officer to whom the complaint is made upon pain of 10 shillings by the party, and 10 shillings by the Innekeeper. But there shall be but one 20 shillings penalty for one journey, where the distress is first taken.

9 All writs, or warrants executed upon that day are null (unless for Treason, felony, breach of the Peace, or Profanation of that day) and a pain of 5 l. upon the server of them.

10 Travelling with Horse, Coach, Sedan, Boat, without licence of one Justice, except in London to Church, 10 shillings forfeiture, and 5 shillings the Labourer.

11 Any Tipling in Tavern, Inne, Alehouse, Victualling house, or Tobacchoshop, or that shall receive any such (without allowance as aboveseid) or that shall grinde any corn, &c. forfeit 10 shillings a piece.

12 The

12 The Justices and Head officers must search for offenders upon pain of 5 l. neglected upon proof to the chief Justice, chief Baron, or Judge of Assise, and 20 shillings upon neglect of the Constable, or inferior officer.

All the said penalties to be levied by warrant of any Justice by distress and sale of the parties goods, and for want thereof to be put in the stocks 6 hours.

No Butcher to kill or sell any victuals upon this day, upon pein of 6 shillings 8 pence if questioned within six weeks, to be levied as aforesaid.

Any Justice may upon good cause bestow upon the informer a third part of the said penalties of 5 shillings and 12 pence for being present at, or using unlawfull sports, and of 20 shillings to be levied on Carriers, &c. and of the 6 shillings 8 pence to be levied on Butchers, and of 10 shillings upon Travellers, and 5 shillings for bearing burdens, or working on that day; the residue to be disposed of to the poor of the Parish, and always the overplus to be restored to the owner.

These Acts to be given in charge every Assises, and Sessions, and to be read the first Sunday in March yearly in the aforenoons, and for any man unjustly vexed or sued here upon to have treble costs. *Stat.* 1 *Car.* 1. 3. *Car. Ord.* 6 April 1644. 29 April 1650. 27 Septem. 1650. Note treble costs are given by the Act 19 April 1650.

Superstitious Reliques.

All Altars, and Tables of stone are to be demolished, all Crucifixes, Images, Crosses, Pictures of any person of the Trinity, the Virgin Mary, or other Saints are to be defaced: Communion Tables to be removed from the East end to some other convenient place of the Church, or Chappel: And all rails about the same, candlesticks, and tapers about the Com-

Communion Table to be taken down before the firſt of November 1643.

This to be done, and the place made up again by the Churchwardens at the Pariſh charge: otherwiſe they to forfeit for twenty days default therein 40 ſhillings to the uſe of the poor thereof. *Ord. Auguſt.* 1643.

All repreſentations of any Perſons of the Trinity, Angell, or Saint, in or about any Church, or Chappell, or other open place whatſoever ſhall be demoliſhed. No ſuch to be hereafter ſet up: The Chancell ground raiſed for an Altar, or Communion Table to be levelled, and made as it was 20 years before. No ſuperſticious veſtments, copes, ſurplices, hoods, or roodloſts, or fonts, ſhall be any more uſed in any Church, but ſhall be totally defaced. No Crucifix, Croſs, Picture, or repreſentation of any Perſon of the Trinity, Saint, or Angell, ſhall be, or continue upon any place, or thing uſed, or to be uſed about gods worſhip. All Organs and the frames wherein they ſtand in Churches, or Chappels ſhall be defaced and none other hereafter ſet up.

But Images, Pictures, or coats of Arms in ſtone, glaſs, or otherwiſe, in a Church, or other place, ſet up for a monument of a King, or other Perſon not reputed a Saint are not to be removed. Churchwardens, or Overſeers of the poor may ſee theſe things done accordingly.

Any one Juſtice of Peace where theſe things were before, and not taken down by the ſaid 1 of November may upon Information given unto him, cauſe it to be done at the charge of the Pariſh, or if he pleaſe, the Churchwardens, and Overſeers of the poor may ſee it done. And the Juſtice may cauſe the Churchwardens to repair it as before, at the Pariſh charge. *Ord.* May 1644.

Super-

Superſedeas.

Superſedeas is ſufficient, though it neither name the ſureties, nor contain the ſumme wherein they are bound; but it is better if it do both. *Lam.* 96. *Dal.* 172.

Superſedeas delivered to the officer, if he urge new ſureties, the party may refuſe; and if he be committed, he may have his action. *Lam.* 99. *Dal.* 172.

Superſedeas out of the Chancery will diſcharge ſurety of the Peace in the Kings Bench, and either of them a precept for the peace awarded by a Juſtice of Peace, and an attachment lyeth againſt him if he ſurceaſe not, and he may be impriſoned and fined for it. *Lam.* 99. *Dal.* 172, 173.

Superſedeas received by a Juſtice of Peace out of an higher Court, he ſhould forbear to make any warrant, or if one be made, to ſend out his *Superſedeas* to the Sheriff or other officer to deſiſt to put it in execution. *Lam.* 99. *Dal.* 172.

Superſedeas out of the Chancery is to be certified at the next Seſſions, together with the recogniſance for the Peace; if the *Superſedeas* do teſtifie that he hath found ſurety in the Chancery onely unto a certain day, which day is after thoſe Seſſions if the *Superſedeas* come to his hands after his recogniſance "taken. *Dal.* 173. *Lam.* 113. for peradventure the "recogniſance was broken before the *Superſedeas* "purchaſed.

Superſedeas for the good abearing, *quære* if it may be granted by a Juſtice of Peace. *Lam.* 123. *Dalton* affirmeth it. 197.

A *Superſedeas* made by a Juſtice of Peace, and returned under his ſeal, is a ſufficient record to prove a recogniſance taken for the Peace, and warrant to call the party bound, and if he make default, to record the ſame *Lam.* 97.

If

If a Justice of Peace will by a *Superfedeas* discharge a Precept for the Peace awarded by another by vertue of his office and not by *Supplicavit*, the recognisance would be taken according to the form of the Precept. *Lam.96. Dal.172.*

Certiorari to remove a record is in it self a *Superfedeas* to the Justices, yet the party may have a *Superfedeas* to the Sheriff that he arrest him not upon the Justices record. *Lam.515.*

Whether the Justices *ex officio* after a *Certiorari* ought to award their *Superfedeas*, to stay proceeding upon the record, *quære Lam. ibid.*

An exigent awarded against one indicted of a trespass before the Justices of Peace, may be stayed by *Superfedeas* out of the Chancery, upon surety found there to appear at the day in the Writ, though he be taken upon it. *Lam.526,527.*

So by *Superfedeas* granted by two Justices of Peace, one being of the Quorum, testifying that he hath found sureties, *de fine assidendo. Lam. ibid.*

Yet *Dal.* and *Cro.* say, by one Justice of Peace. *Dal. 319. Cro.234.a.*

If a *Superfedeas* be directed to the Justices of Peace and Sheriff, the Justice to whose hands it shall be delivered, may keep it, and deliver the labell to the party. *Dal.173.*

Superfedeas granted for the Peace or good behaviour out of the Chancery or Kings Bench, is void, unless it be upon motion in open Court, and upon sureties of 5 pounds in land, or 10 pounds in goods "in subsidy, and unless it appear to the Court that "such proces of Peace or good behaviour is prose- "cuted against the desirer of such *Superfedeas bona* "*fide* by some grieved in that Court out of which the "*Superfedeas* is desired. 21 *Jac.c.*8. *Dal.*174.

Whether the party bound, sending the *Superfedeas* to the Sessions, be discharged of his appearance there, *quære Dal.* 173. *Lam.* 113. the presidents are, that the

the party appeared and prayed allowance, &c.

Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, must execute it. *Dal.* 186.

The Justice that receiveth the Writ, may make the Warrant to the Constable or other party indifferent; and if he refuse to finde sureties, to carry him to prison. *Dalt.* 186.

The party attached can be bound onely before him that sent out the warrant. *Dal.* 186.

The Justice is to execute the *Supplicavit* as it directeth. *Dal.* 187.

If the summes be left to discretion, it is safe to take good summes. *Dal. ibid.*

After sureties taken, the Justice may make him a *Supersedeas Dal.* 187.

The Justice needs not return the *Supplicavit*, nor make certificate untill a *Certiorari* do come to him. *Lam.* 109. *Dal.* 190.

Supremacy.

To refuse the oath of Supremacy, first offence is *Præmunire*, the second Treason. 5 *Eliz. cap.* 1.

Surety of the Peace is the acknowledgement of a recognisance to the King (taken by a competent Judge of record) for the keeping of the Peace. *Dal.* 161. *Lam.* 75.

Every Justice of Peace may take and command the Peace either as a Judge or a Minister. *Dal. ibid.*

Justice of Peace may command surety of the Peace, either of his own discretion, or at the prayer of another.

In what cases a Iustice of Peace may command surety of the Peace by his own discretion. Dal. 162.

1 One that maketh an affray upon the Justice himself, or an assault.

2 Such as in his presence make an affray upon another, or offer to strike another.

3 Such as in his hearing shall threaten to kill, beat, or hurt another, or to burn his house.

4 Such as in his presence contend onely in hot words.

5 Such as in his presence go or ride armed offensively, or with unusuall number of servants or attendance. And servants and labourers that bear any weapons contrary to the statute of 12 *Ric. 2. cap 6.*

6 Any person by him suspected to be inclined to break the Peace.

7 If the Constable bring one before him that shall threaten to kill, maim, or beat another.

8 If the Constable bring one who in his presence attempted to break the Peace by drawn weapon, striking or assaulting another.

9 Whom the Constable findeth fighting or quarrelling in a house, he may break open the door, and bring them before a Justice of Peace to be bound.

10 He may make his warrant for such as have made an affray, and binde them to the Peace.

11 If one have received a wound, he may binde the one and the other till the wound be cured, and the malice over.

12 Such as go or ride armed offensively to fairs or markets, or wear or carry dags or pistols charged.

13 Common Baretours. *Dal.* 163.

14 Rioters.

15 Him that standeth bound to keep the Peace, and

and hath forfeited his recognisance by breach of the Peace; but not till he be convicted, and the forfeiture levied. *Dal.* 163. Yet *Cro.* 141. saith that he may be bound anew if he be onely convict for breaking the Peace.

16 Him that standeth bound if his sureties be insufficient.

Justice of Peace is to send to prison him that refuseth to give sureties, untill he finde sureties. *Dal.* 163. *Cro.* 138. *b.* nu. 8.

Justice of Peace may cause one to be arrested to finde surety of the Peace against another, and grant a warrant for it, for he might have bound him of his own authority. *Dal.* 163.

"Justice of Peace may perswade a man to require "surety of the Peace against another, and grant a "Warrant for it: for he might have bound him of his "own authority. *Lam.* 78. *Dal.* 162. 336.

At the request of another he may command surety of the Peace, but must first take an oath of the party that demandeth the Peace, that he standeth in fear of his life, or of some bodily hurt, or to have his house burnt. *Lam.* 83. *Dal.* 163.

"Sureties in a recognisance ought to be two, and "regiſtred in Subsidy, for though some may be "sufficient which were not assessed, yet it standeth "not well together, that he should be bound to the "King in 10pound or 20 pound that in subsidy was "not found worth any thing. *Dal.* 175.

"Justices of Peace in Sessions may examine sure-"ties upon oath of their sufficiency. *Dal.* 175.

Causes to require surety of the Peace.

1 He that is threatned to be hurt in body, as to be beaten, wounded, maimed, or killed. *Dal.* 164.

2 He that feareth another will beat, wound, maim, or kill him. *Dal. ibid.*

3 He

3 He that feareth another will burn his house. *Dal. ibid.*

4 He that feareth that *A.* will procure another to hurt him in his body, or burn his house. *Dal.* 164.

5 If a man lie in wait to beat, kill, or hurt another. *Dal. ibid.*

Quære, if he threaten to burn his goods.

In what cases a man shall not have the Peace granted.

1 To threaten one to imprison him. *Dal.* 164. *Lam.* 82. *Cro.* 135. *a. Quære tamen. Br. Peace* 22.

2 Where one is in fear that a man will hurt his servant, cattle, or other goods. *Dal.* 164. *Cro.* 148. *a. Lam.* 83. but may have a writ out of the Chancery. *Dal.* seemeth to be of the other opinion. 164.

3 Because he is at variance with his neighbour. *Dal.* 164. *Lam.* 83.

4 Where there is no fear of present or future danger. *Dal.* 164. *Lam.* 84.

5 For a battery past: yet a Justice if he see cause, may binde over the affrayers. *Dal.* 165. *Pax Regis* 14.

Justice of Peace may deny to grant surety of the Peace, if it be upon meer vexation; yet if the party will take his oath, it is not safe to deny it. *Dal.* 165. "yet afterwards perceiving it to be of malice and for "vexation, may binde the party so requiring it to "his good behauiour.

Against whom surety of the Peace may be granted.

Against a Knight, or any person under the degree of a Baron. *Dal.* 166.

"Against Sheriff, Coroner, Eschaetor, or other officer

"officer of Justice. But it is not good to binde them "*versus cunctum populum. Dal.* 166. *Lam.* 80, 81.

Against any Excleſiaſticall perſon not doing divine Service in the Church or Churchyard, or other place dedicated to God. *Dal.* 166. 50 *Ed.* 3. *c.* 5. 1 *R.* 2. *c.* 15.

One Justice of Peace may grant the ſurety of the Peace againſt his felllow Justice, though ſitting in Seſſions. *Cro.* 134. *b. Dal.* 167. *Lam.* 80.

One Justice of P. may demand the Peace againſt another man. *Lam.* 81 *Dal.* 167.

The wife may demand the Peace againſt her husband, if he threaten to kill her, or outragiouſly beat her, or have notorious cauſe to fear it; and the husband may crave the Peace againſt his wife. *Dal.* 167. *Lam.* 78. *Cro.* 133. *b.*

The Peace may be granted to a feme-covert, or an infant under the age of 14 years, if he have diſcretion to crave the Peace but they muſt be bound by ſureties; and an infant under that age may demand it. *Dal.* 167. *Lam.* 79.

A Lunatick may crave the Peace, and have it granted him. *Dal.* 167. *Lam.* 79.

It may be granted againſt one attainted either of treaſon or of felony, or convict of hereſie. *Dal.* 168. and they may demand it. *Lam.* 79.

It may be had againſt an excommunicate perſon. *Dal.* 168. and an abjured perſon. *ibid.*

It may be had againſt one attainted in *Præmunire*, and againſt an alien either made deniſon, or living in England. *Dal. ibid.*

It may be had againſt one dumb and blind, ſo againſt an impotent perſon. *Dalt.* 168. *Lam.* 79.

Against whom the Peace cannot be granted.

1 It cannot be granted against any Nobleman, or Noblewoman. *Dal.* 165.

2 Against one *non sanæ memoriæ*, unless he have *lucida intervalla*. *Dal.* 167. *Lam.* 79.

3 Against one born dumb and deaf; but if he become dumb and deaf, or made blind and deaf accidentally, he may have understanding, and the Peace may be granted to him or against him. *Dal.* 168.

How the surety of the Peace is to be commanded and executed.

A Justice of Peace may { word, / writing. } command the Peace by

By word.

The party being present in the presence of the Justice of Peace, threatneth another, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace. *Da.* 169. *Cro.* 138. *b.* nu. 8. *Lam.* 84, 85.

One demandeth the surety of the Peace, being present, and taketh his oath he is affrayed, &c. the Justice may command the other to finde surety. *Dal.* 169. *Cro.* 138. *b. Lam. ibid.*

The Justice in such cases may command the Constable or other known officer, or his own servant being present, to arrest such party to finde surety of the Peace, and may commit to the Gaol such party refusing to finde surety. *Dal. Cro. Lam. ibid.*

By writing.

The Justice by precept or warrant in writing under his seal directed to some known officer, or other indifferent

indifferent perſon, containing the cauſe and at whoſe ſuit, to the end the parties may provide the ſureties, and take them with them. *Lam.* 87. *Dal.* 170.

The Juſt. may make his warrant to bring the party before him, but the uſuall manner is to bring the party before the ſame Juſtice, or ſome of the Juſtices of the County. *Dal.* 170.

Who may ſerve the Warrant, vide *warrant*.

The Conſtable is firſt to acquaint the party with the matter in the Warrant; and if he refuſe to go before the Juſtice to finde ſureties, he may arreſt him and carry him to the Gaol, without carrying him to the Juſtice. *Lam.* 90. *Dal.* 170. *Br. Faux Impriſ.* 18.

If the party yeeld to finde ſurety, the officer is not bound to go up and down with him, but may keep him untill he can procure ſureties to come to him; if afterward he make reſiſtance, or offer to go away, he may by his warrant carry him to the Gaol, and ſet him in the ſtocks, till he can get aid to convey him to the Gaol. *Dal.* 170 *Lam.* 92.

The arreſt is not juſtifieable except the Officer do carry him to the Gaol that refuſeth to finde ſureties. *Cro.* 171. *b. Dal.* 171.

The party may go before any other Juſt. (if the warrant proceed *ex officio*) to offer the ſureties, but cannot force the Officers to travell out of the diviſion where they dwell. Nay it is at the election of the officer to carry the party to any other Juſtice, rather then to give the election to the delinquent. *Dal.* 171. *Lam.* 94.

The party coming before the Juſtice is to offer his ſureties, or elſe the Juſtice is to commit him, for the Juſtice needeth not to demand them. *Dal.* 171.

If the party refuſe before the Juſtice of Peace to finde ſureties, the Officer by the firſt Warrant may commit him. *Dal.* 171. *Lam.* 92.

The Officer is fineable if he arreſt the party, and do not carry him before a Juſtice of Peace, if he be

willing to finde ſurerties; ſecondly, if upon refuſall they arreſt him, and do not carry him to the Gaol. *Dal.* 171.

The party being impriſoned, the Juſtice of Peace may make him his *Liberate*; firſt, if the complainant die; ſecondly, if he do enter ſurety of the Peace. *Dal.* 171.

If the impriſoned have a ſuit depending in the common pleas, by ſome opinions, the impriſoned may be diſcharged by a writ of priviledge. *Quære tamen. Dal.* 171. *Lam.* 94. *Cro.* 138. *a.* nu. 4.

A ſworn and known officer needeth not to ſhew his Warrant, but the ſervant of the Juſtice muſt ſhew it, if it be required. *Lam.* 89 *Dal.* 340

If Husband and Wife be bound to appear, and in the mean time to keep the Peace, and the Husband onely appeareth, the recogniſance is not forfeited. *Da.* 179. *Quære. Cro.* 144 *b.*

Suſpicion and ſuſpects of ſelony.

A ſuſpect of felony ought not to be arreſted by a warrant from a Juſtice of Peace, unleſs he be indicted before; for if the Bailiff which ſerveth the Warrant doth ſuſpect him, he may do it of himſelf without a warrant; and without ſuſpicion the Juſtices warrant is no warrant. *Lam.* 188. *Dal.* 339. *Cro.* 147. *b.* 148. *b.* 197. *a.* nu. 21. *Quære Dal.* 339. *Br. Faux Impriſ.* 8.

Suſpicion onely without felony committed is no cauſe to arreſt another. *Cro.* 154. *a.* nu. 28. *Dal.* 331. *Brook ibid.* 1. 4.

A felony being committed, every man may arreſt ſuſpicious perſons that be of evill fame, &c. and if ſuch perſon make reſiſtance, the other may juſtifie to beat him *Dalt.* 345.

The Conſtable or other perſon that arreſteth one for felony or ſuſpicion, muſt himſelf ſuſpect. *Dal.* 311, 345. *Cro.* 99. *b.* nu. 43.

"In

"In an arreſt for ſuſpicion of felony, the party "that cauſeth the arreſt muſt ſuſpect him, and alſo "ſhew ſome cauſe of ſuſpicion: otherwiſe every man "may arreſt another for felony done. *Cro.* 99. *b.* nu. "44 *Dal.* 311, 312. where he maketh a *quære*.

Swans.

Taking away from his own or another mans ground Swans eggs of another mans, upon conviction and examination of witneſſes is impriſonment for a year and a day, and loſs of ten pound *Lam.* 446.

To ſteal Swans unmarked, if they be *domiti*, and kept in a mans manour or private rivers, is felony. *Dal.* 267.

Swearing.

If any perſon ſhall offend herein in the hearing of a Juſtice of Peace or be convicted by confeſſion or proof of any witneſs before a Juſtice or head officer of any City or corporate Town (which they are impowred to adminiſter, and are to keep a record of all ſuch convictions, and make a certificate thereof quarterly, and the degree of the offence to the Clerk of the P. to be recorded) every perſon ſo offending to pay to the uſe of the poor of the Pariſh according to the reſpective degree of ſuch perſon, that is to ſay.

Every Nobleman for the firſt offence 30 ſhillings, Barronet and Knight 20 ſhillings, Eſquire 10 ſhillings, Gentleman 6 ſhillings 8 pence, and all others 3 ſhill. for the ſecond offence double, & ſo to the 9 offence upon due conviction. And upon conviction for the 10 offence at the Aſſiſes, or Seſſions beſides the ſaid forfeiture ſhall be adjudged a common ſwearer, and enter ſecurity for the behaviour for three years, and to ſwear during that time is a breach thereof.

All women to incurr the ſame penalty in the degree of their husbands, if wives or widdows, and if a

single woman of their fathers which several summs so forfeited are to be levied by warrant from a Justice of Peace or head officer by distress and sale of goods restoring the overplus; And for want thereof, the offender being above 12 years old to be put in the stocks for 3 hours, and for every offence after six hours, and if under that age, then for non-payment thereof to be whipt by the Constable, parent or master in the Constables presence.

And all Constables and other officers may by the warrant aforesaid apprehend and bring any such offender before a Justice to be punished accordingly: This Act may be given in evidence upon the generall issue, and the defendant upon vexation to have his treble costs.

By this act the statute of 21 *Jacobi* made for punishment hereof is repeated. *Act.* 222. 8. *June* 1650. *Quere.*

He that sweareth or curseth, being convicted by hearing of any Justice of the peace, or by oath of two witnesses, or confession of the party before a Justice of Peace, loseth 12 pence to the poor, where the offence shall be committed, to be levied by distress, the offence being proved within 20 days, or for default of a distress to be set in the stocks three hours. 21 *Jac.* c. 20, & 3 *Car. cap.* 4.

"The Warrant for distress is to be made to the "Constable, Churchwardens, and Overseers of that "parish where the offence is committed. 21 *Jac.* "*cap.* 20.

The offender being under twelve years of age, and not forthwith paying his 12 pence, by warrant of a Justice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence. *ibid.*

Tax-

Taxations, *vide* Stock of the ſhire.

TAxations made for a Common-Wealth, as making or mending of bridges, highways, cauſeys, ſea-banks, &c. ſhall be upon all perſons though they aſſent not. *Dal.* 141. *Coke* 5. 63. *Br. Cuſtoms* 6.

"A town is amerced, and by aſſent of neighbours "every inhabitant is aſſeſſed, and they appoint I. S. "to collect it, and for non-payment ſuch a day, to "diſtrein: ſuch a diſtreſs taken by I. S. for rates is "good. *Dal.* 141. *Brook Cuſtomes* 6. *Coke* 5. 63. *Doctor "& Student* 74. *b.*

Tale-bearers, *vide* News.

Tanners, *vide* Leather.

Tavern-keeper.

Aſſignement of ſuch as ſhall keep a Tavern to utter wine, is to be made at the generall Seſſions, unleſs it be otherwiſe by a ſpeciall grant. 7 *Ed.* 6. *c.* 5. *Lam.* 614.

Teſtimoniall.

Teſtimoniall under the hand of one Juſtice of Peace ſealed, is ſufficient to paſs in hay-time and harveſt-time from one County to another. *Lam.* 190.

In all teſtimonials and paſports, ſome aſſured marks of the party, by which he may infallibly be diſtinguiſhed and known from others, are fit to be ſpecified. *Lam.* 206.

Teſtimoniall for a ſerving-man turned from his

masters service, or whose master is dead, ought to be made by two Justices of Peace. 27 *El. c.* 11. *Lam.* 331. *Dal.* 127. maketh a *Quære.*

" None retained in husbandry is to depart without " Testimoniall at the end of his term. 5 *El. c.* 4. *Vide* Servants.

Theft.

Theft is a fraudulent and felonious taking of another mans personall goods, in the absence of the owner, & without his knowledge. *Lam.* 272 *Dal.* 262.

Theft is either Grand-larceny, or Pety-larceny.

Yet if the goods be of more value, and the Jury finde it did not exceed 12 pence, it is not Grand-larceny. *Dal. ibid.*

Pety-larceny is if the goods do not exceed 12 pence, and is not felony of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the Just. before whom the party is arraigned. *Dal. ibid.*

For pety-larceny, the Justice of Peace before whom the offender shall be brought, is not to punish him, but either to send him to the house of correction or to bail him. *Dal. ibid.*

Pety-larceny is forfeiture of goods and chattels.

Six pence, four pence, and three pence, being taken by one at severall times from one and the same person, may be put together in one indictment. *Dal.* 263. *Lam.* 273. *Stam.* 24.

If two, or more, steal above 12 pence from one, it is felony of death in every one. *Dal. ibid. Lam.* 273.

The manner.

To make an act larceny, there must be first a taking, secondly, a carrying away. *Lam.* 277. *Dal.* 263.

Yet it may be felony though the offender came to it by the delivery of the owner. *Lam.* 278.

As,

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony. *Dal.* 264 *Lam.* 278. *Cro.* 35. *b.* nu. 4.

A Carrier carrieth goods to him delivered to the place appointed, and there breaketh them up, and embezelleth them; it is felony. *Dal.* 264. *Cro.* 36. *a* nu. 13. *Lam.* 279.

A Carrier taketh out parcels of the goods to him delivered; it is felony. *Dal* 264. *Cro.* 36. *a.* nu. 11.

A Carrier conveyeth them to another place, and there breaketh them up, and conveyeth part or all to his own use; it is felony. *Dal.* 264. *Lam.* 278.

Where, after delivery, embezelling is no felony.

A Carrier imbezelling the whole. *Lam.* 278. *Cro.* 36. *a.*

A stranger borroweth a horse, and rideth away.

A Clothier delivereth his wool to his work-folk.

One delivereth his goods to another to keep.

One delivereth money to *A.* to pay *B.*

Felony in servants by force of the statute, 5 El. cap. 10.

Servant of the age of 18 years (other then an Apprentice) to whom any money, goods or chattels, &c. by his master or mistress shall be delivered to keep, of the value of 40 shillings or above; if he go away with, or convert the same to his own use, with intent to steal the same, or to defraud his master or mistress, it is felony, if it be prosecuted within a year. *Lam.* 279. *Dal.* 265.

Wherein are divers cases.

A man receiveth of his master 20 pound in gold to keep, which he changeth into silver, and runneth away with it, they are both of one nature, therefore felony. *Dal.* 265. *Lam.* 280. *Cro.* 35. *b.* nu 6.

One servant delivereth to his fellow-servant to the value of 40 shillings of his masters goods, and goeth away with it, or converteth it to his own use; it is felony. *Dal. ibid. Cro.* 50. *a. Lam.* 280.

A servant maketh a garment of his masters cloth, and goeth away therewith; it is felony. *Dal.* 265. *Cro.* 50. *a.*

Quære of barley converted into malt, or money melted into a piece of metall. *Dal.* 266.

An obligation is delivered unto a servant, and he goeth away with the money received upon the same obligation; it is no felony within the statute of 5 *El. c.* 10. for the master delivered not the money. *Dal.* 265. *Cro.* 35. *b.* nu. 5. 50. *a.*

The servant carrieth his masters wares to market, selleth them, and goeth away with the money, or converteth it to his own use; it is not felony within the statute of 5 *El. c.* 10. *Dal.* 266. *Cro.* 50. *a. Lam.* 280.

A receiver receiveth rents, and goeth away with them, it is no felony, for the statute is, where the master delivereth to keep. *Dalt.* 266. *Cro.* 50. *a.*

I deliver to my servant a horse to ride to market, or money to by things or pay another, and he goeth away with it; it is no felony at the Common-law, for it was of his masters delivery. *Dal.* 266. *Cro.* 35. *b.* nu. 7. *Quære* if it be not felony by 5 *El. c.* 10.

"My shepherd selleth my sheep falsly, it is felony. *Cro.* 35. *b.* nu. 9. but *Stam.* 25. *a. è contra.*

A servant keepeth the key of his masters chamber door, and taketh away above the value of 12 pence, it

it is felony at the Common-law, for they were not delivered him. *Dal.* 266. *Lam.* 279.

A gueſt taketh the ſheets or other goods of the hoſt feloniouſly into ſome other room of the houſe, it is felony. *Dal.* 266. *Cro.* 35. *a.* nu. 2. *Lam.* 281. *Br. Coron.* 107.

A man feloniouſly taketh an horſe, and is apprehended before he gets out of the cloſe where he went. *Lam.* 281. *Dal.* 267 *Cro.* 36 *a.* nu. 12.

Not enquirable before Juſtices of Peace.

A ſervant taketh away or ſpoyleth his deceaſed maſters goods; in default of appearance in the Kings Bench after Proclamation, it is felony. *Dal.* 266. *Cro.* 56. *a.* 6. 33 *H.* 6. *cap.* 1.

Of what things felony may be committed.

Of moveable goods, as money, plate, apparell, houſhold-ſtuff, &c ſo of corn, hay, trees, fruit, &c. being ſevered from the ground. *Dal.* 267. *Lam.* 273.

Of domeſticall things, as horſes, mares, colts, oxen, kine, ſheep, lambs, ſwine, piggs, hens, geeſe, ducks, turkeys, or any other domeſticall beaſts or birds of tame nature: and though they run or fly away out of the owners ſight, the detainer is puniſhable by action. *Dal.* 267.

Of wilde nature, young pigeons out of another mans dove-houſe, young hawks or herons breeding in Parks or ſeverall grounds, fiſhes kept in a trunk or pond. *Cro.* 36. *b.* nu. 22. *Lam.* 274. *Dal.* 267. *Stam.* 25. ſayeth goſhawks.

Quære of old doves in a dove-houſe. *Lam.* 274.

So ſwans marked, and at large, and tame deer marked.

marked and domesticall, if the taker know it to be tame. *Dal.* 267. *Lam.* 275. *Cro.* 36. *b.* nu. 23.

By statute it is felony to hunt deer, or conies after some sort in park, forrest, or warren, or to take a tame beast or other thing in a park, by manner of robbery *Vide* 3 *E.* 1. *c.* 20. 1 *H.* 7. *c.* 7. *Lam.* 275. *Da.* 268.

So to take away or conceal an hawk. *ibid.*

To steal the flesh of tame or wilde fowl dead, is felony. *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull wool off the sheeps backs, or to kill them for their skins. *Dal.* 269. *Cro.* 36. *a.* nu. 17. *Lam. ib.*

A man may commit felony in taking his own goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, or recover the same by action of Detinue. *Dal.* 270. *Cro.* 37. *b.* nu. 42. *b. Stam.* 26. *a. Lam.* 277. *Er. Coro.* 142. *quære.*

I lend or deliver my plate or goods to another who melteth my plate or changeth the fashion of my goods; to take them feloniously is felony in me. *Dal.* 270. *Cro.* 37. *a.* nu. 34. *Lam.* 277.

If a man pursue or take a felon that hath stollen his goods; taketh them and suffereth the thief to escape, he is no accessary; for he may *agree civiliter aut criminaliter in initio. Lam.* 290. *Terms of Law. Titu. Theftboote. Cro.* 37. *a* 45. *b* 42. *b. P. R.* 131. *Dal.* 296.

If the party robbed take money, &c. of the thief, to the end that he shall not give evidence against him, whereby the thief escapeth, he is accessary to felony of his own goods. *Lam.* 290. *Dal.* 296. *Cro.* 41. nu. 5.

Quære, if a man having made complaint to a Justice of Peace, take his stollen goods again, and doth not prosecute the matter, whether it make him not accessary, for that he did once *agere criminaliter*. *Dal.* 296.

Of

Of what things felony is not committed.

Things which are reall chattels. *Lam.* 275, 276. *Dal.* 270.

To cut down any tree or corn, or pull any apples, or carry them away, *Dal.* 270. *Lam.* 276.
Being cut and gathered for one, and then for another to carry them away, it is felony: or if a ſtranger cut at one time and carry away at another time, it is felony, *Dal.* 270. *Cro.* 36. *b.* nu. 26. *Lam.* 276.

Lead upon an houſe or Church is part of the freehold. *Dal.* 270. *Cro.* 37. *a*, nu. 33.

Evidence of a mans land, indenture of leaſe, or other writings in box or out of box, cannot be valued. *Lam.* 275. *Dalt.* 270.

To take away an infant in ward, is no felony. *Dal.* 270. *Lam.* 276.

Treaſure trove or hidden, wreck of the ſea goods wayved or ſtrayed; for the owner is unknown. *Lam.* 276. *Br.* . *Coro.* 96. *Dal.* 270.

But felony may be committed by taking *bona ignoti*, or *mortui et ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation in time of vacation. *Lam.* 276, 277. *Dal.* 270.

What perſons are chargeable in larceny.

A woman covert by her ſelf, her husband not knowing thereof, committeth larceny as principall, if ſhe ſteal another mans goods; or as acceſſary, if ſhe receiveth the thief that ſtole them, or receiveth the ſtollen goods into her houſe, knowing thé to be ſo, or locketh them up, and the husband knowing thereof, the law will impute the fault to him, not to her; but if the

the husband ſo ſoon as he knoweth it, forſake his houſe, and her company, & remain elſewhere, he ſhall not be charged for her offence. *Sta.* 26 *P.R.* 130. *Lam.* 282. *Dal.* 271.

The husband delivereth goods to a ſtranger, the wife ſtealeth them from the ſtranger; it is felony in the wife. *Dal.* 271.

A ſtranger goeth away with another mans wife, and againſt her will carrieth away her husbands goods, it is felony in the ſtranger. *Cro.* 35. *a.* nu. 2 *P.R.* 130. *Dal.* 271.

A ſervant ſtealeth by the compulſion of his maſter, it is felony in both. *Cro.* 37. *a.* nu. 37. *Dal.* 273.

Who are not felons.

A wife ſtealeth by the compulſion of her husband, it is no felony in her. *Cro.* 36. *b.* nu. & 37. *a.* nu. 36. *Lam.* 281. *Dal.* 271. but to do murder by her husbands compulſion, is felony in both. *Dal. ibid. Cro.* 37. *a.* nu. 38.

A wife ſtealeth by commandement of her husband without conſtraint, *quere Dal.* 271. *Stam.* 26 *P.R.* 130. *Lam.* 281.

The husband and wife together ſteal goods, it is felony in the husband onely. *Dal.* 271. *Sta.* 26. *Lam.* 282.

A wife ſtealeth goods delivered to her husband, it is no felony. *Dal.* 272. *Cro.* 37. *a.* nu. 35.

The wife ſtealeth her husbands goods, and delivereth them to ſtrangers, it is felony in neither. *Dal.* 272. *Stam.* 27. *Lam.* 282. *Cro.* 35. *a.* nu. 2

The wife receiveth the husband being felon, and relieveth him, ſhe is no acceſſary. *Cro.* 42. *b.* nu. 22. *Dal.* 272. *Stam.* 26. *f.*

An ideot, lunatick, dumb and deaf perſon, and an infant are chargeable in larceny after the ſame ſort as they are chargeable in homicide. *Lam.* 282. *Dal.* 273, 295. *Vide* Manſlaughter.

Threat-

Threatning.

He that ſhall be threatned to be hurt in his body, to be beaten, wounded, maimed, killed, may crave and have the Peace againſt the other. *Dal.* 164 *Lam.* 82.

If a man be threatned to have his goods burned, *quære* if he may have the Peace. *Dal.* 164. *Lam.* 82.

To threaten to impriſon a man, is no cauſe of the craving of the Peace; for the wronged may have his action of falſe impriſonment, or his Writ *de homine replegiando. Dal.* 164. *Lam.* 82, 83. *Quære.*

To enter peaceably into an houſe, &c. and put out *B.* and preſently threaten and ſay to *B.* that if he do come thither again to enter, he will kill him, this ſeemeth a forcible entry: and if *B.* come again to make his entry, then if the other ſhall threaten to kill him, if he entreth, it is a forcible detainer. *Dal.* 202. *Cro.* 70. *b.* nu. 39.

Tile-making.

One Juſtice of Peace may enquire, hear, and determine by his diſcretion, as well by examination of the offender, as otherwiſe, the offence committed in tile-making, and aſſeſſe the fine therein limited, and may appoint men skilfull to be ſearchers, *Quære tamen* whether one may do it alone, *Lam.* 193, 194. *Dal.* 144. 17 *E.* 4. *c.* 4.

Earth for tile is to be digged before the firſt of November, and to be turned and ſtirred before the firſt of February following, and to be tryed from ſtones, vines, and chalk, and not to be wrought before March following, or loſe double the value to the buyer. 17 *E.* 4. *c.* 4 *Lam.* 468.

Plain tile put to ſale, is to be 10 inches and an half

half long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shillings a hundred. 17 E. 4. c. 4. *Lam.* 468.

Roof tile must be 13 inches long, half inch and half quarter of an inch thick, conveniently deep, or lose 6 shillings 8 pence an hundred. *ibid.*

Gutter tile must be 10 inches and a half long, of convenient breadth, depth, and thickness, or lose two shillings an hundred. *ibid.*

Searcher of tile, for every default in searching, lose 10 shillings. *ibid.*

Tipling.

The Inne-keeper, Victualler, or Alehousekeeper, that suffereth any to continue tipling in his house, shall forfeit 10 shillings to be levied by distress, by "warrant from one Justice of Peace, and to be "sold after 6 days; for want of distress to be sent "to the gaol till payment be made. 1 *Jac. c.* 9. 7 *Jac.* "*c.* 10. 1 *Car. c.* 4. *Lam.* 192.

"The Oath of Constables, Churchwardens, "Headborows, Tithingmen, and Aleconners, are to "be inlarged, and extend to present all offences a-"gainst the statutes of 1 *Jac. c.* 9 *and* 4 *Jac. c.* 5. "21 *Jac. c.* 7.

Any continuing tipling in an Inne, Victualling-house, or Alehouse, shall forfeit 3 shillings 4 pence to the poor, or not being able to pay the same, shall sit in the stocks four hours. 1 *Jac. c.* 9. 7 *Jac. c.* 10; 21 *Jac. c.* 7. *vide* Alehouses. 4 *Jac. c.* 5.

Tithes.

Two Justices of Peace, one being of the *Quorum*, upon complaint by any competent Judge of tithes, for any misdemeanour of the defendant in a suit of tithes,

tithes, may cause him to be attached and committed toward, till he finde surety by recognisance to obey the sentence and process of the Judge. 27 *H.* 8. *c.* 7. 27 *Eliz. c.* 11. *Lam.* 357. *Dal.* 141.

Upon complaint in writing by an Ecclesiasticall Judge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged, to such Justices of Peace may cause the party to be attached and imprisoned, till he finde surety to perform the sentence. 32 *H.* 8. *c.* 7. *Dal.* 144. *Lam.* 357. *Cro.* 197. *a.* nu. 22.

Every person is enjoyned to set out, and pay all kinds of Tithes, oblations, and Church duties, and all Arrears thereof to the respective owners, their Executors, &c. due by law, custom, composition, or contract respectively, as they ought to have been, or were due the beginning of that Parliament, or two yeas before.

Any two Justices of the Peace neither Patrons, nor parties, of that place where the substraction is, nor any ways Interessed in the matter in Question may.

1 Summon the person complained on before them. 2 And for non-appearance send their warrant to the Constable, or other officer to resummon him. 3 upon a second default, the summons being proved by oath, or upon his appearance by oathes of witnesses, or otherwise on either side, hear and determine the business, and by writing under their hands and seals sentence the case, and award such costs and damages to each party as to them shall be thought fit. 4 They are impowred to give treble dammages, if the statute allow it. 5 If the party do not, within 30 days after notice of such Judgement pay the tithes, or money by them adjudged, then upon complaint, those Justices may grant their warrant to the Complainant, Constable, or such person as the Complainant shall name, to distrain and sell his

his goods to satisfie it, returning the overplus. 6 for want of distress, the same, or other Justices may imprison him without bail: till he make satisfaction according to the Judgement. 7 If such person shall not duely execute their warrant, they may fine him 40 shillings or under for the poors use to be levied of his goods. 8 by *Ord. 9 August.* 1647.

That Act is declared to extend to ministers setled by authority of Parliament. 9 And by *Ord.* 23 *Aug.* 1647. Ministers placed by the Parliament, if in officiating, or receiving their duties, they be interrupted or ejected by malignant ministers, or others by their procurement, they may be relieved by two Justices upon proof by oath of two witnesses by giving them dammages. *Ord.* 8. November 1644.

Toll.

Miller taking Toll by heaped measure, is to be fined. 31 *Ed.* 1. *de pistoribus. Lam.* 461.

Miller taking excessive Toll, (*viz.*) more then the twentieth, or twenty fourth part of the Corn according to the force of the water, or by a Toll-dish not agreeing with the Kings measure, or otherwise then by strike, shall be grievously amerced. 51 *H.* 3. *c.* 3. *Cro.* 92. *a.*

A Miller shall have Toll of a bushell of hard Corn, three wine pintes, and of a bushell of Malt but one pinte, if the Corn be brought to the Mill, for that a Mill will grinde three bushells of Malt as soon as one bushell of hard Corn. *Cro.* 92. *a. Quære*, for 51 *H.* 3. *cap.* 3. doth not express so much. *Vide Dal.* 151.

Toll-gatherer for horses taking above a penny for one contract or entring the parties names, and that in the same place onely where the market or fair is, and between ten of the clock in the morning and Sun setting, loseth ten shillings and is to answer the party grieved. 2 &. 3 *P.* & *M. c.* 4. *Lam.* 471, 472.

Toll-

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one credible witness that will testifie he knoweth the sellers name, mistery, and dwelling place, and there to enter them with the true price of the horse, or loseth 5 l. 31 *Eliz.* c. 12. *Cro.* 91. *a. Lam.* 472.

Any giving testimony to the toll-taker, unless he do truely know the same, loseth five pound. *ibid.*

"A thief selleth a stollen horse, by a false name, "and is so entred into the Toll-book, such mis-"naming maketh the sale void. *Dalt.* 74.

Toll-taker refusing to give to the buyer or taker of such an horse, &c. a true note in writing of his entry, the party paying two pence for the same, loseth 5 l. 31 *Eliz.* 12.

Transportation.

Every man may transport corn, it being at the prices following, except it be forbidden by proclamation. 3 *Jac.* c. 25. 21 *Jac.* c. 28. 3. *Car.* c. 4.

Wheat	a quarter	26 shill. 8 pence.
Rye and Pease		15 shillings
Barley and Oats		14 shillings.

Every subject born within the Realm, when the prices of corn at the times, places, and havens when and where the said corn shall be brought, shipped or laden, exceed not the rates following, may carry and transport of his own, and buy to sell again in markets, or out of markets, and to keep, or sell, or carry, or transport any of the said corn from the places where they shall be of such prices, unto any parts beyond the seas in amity with his Majesty, in English vessels, or carry or sell in other places within the Realm, except where such transportation shall be forbidden

bidden by the Kings Proclamation. 3 *Car. cap.* 4.

Wheat	a quarter	32. shillings
Rye,		
Pease and Beans		20. shillings
Barley		16. shillings

Every man may transport any beer, when the price of a quarter of Malt exceedeth not 16 shillings.

Any loading a vessell with intent to transport any fullers earth, clay, Tobacco pipeclay, or any other earth, or clay, necessary for fulling, beyond the seas, such goods are forfeited, and 3 shillings 4 pence for every pound weight: And if any owner of ground where the same is digged be privy thereunto, and do not reveal it to a Justice of Peace within 3 moneths, he forfeits 500 l. And if the Just. within 3 moneths after such discovery do not certifie the same under hand and seal to one of the Barons of the Exchequer, he forfeits 100 l. And the owner of the ground where such clay is, that shall dispose of it must enter in a register book to whom, and how much he sells, and once in six moneths deliver a note thereof to a Justice near the place, on pain of 20 shillings for every hundred weight.

The duty of the Justice herein out of Sessions is to certifie the owners discovery under his hand and seal to one of the Barons within three moneths after the making of it: and to receive from the owner of the ground where such digging is a note in writing of what earth he sells, when it is tendered to him.

Traverse.

Traverse is the denying of the chief matter in an indictment. *Lam.* 540.

Traverse upon a forcible entry or detainer found upon

upon presentment, *quære* before whom the traverse is to be made or rendred. *Lam.* 158.

Notwithstanding offer of traverse upon enquiry of force, the Justice of Peace must make the restitution by the statute of 8 *H.* 6. or else deliver or certifie the presentment in the Kings Bench. *Lam.* 158. *Dal.* 60.

Traverse lyeth where one Justice of Peace alone will take upon him to record a riot that he seeth, and the party shall not be concluded thereby. *Lam.* 182.

Traverse of an indictment of felony or treason is not usuall. *Lam.* 541.

Traverse of an indictment may be before the Justices of Peace. *Lam.* 542. If the Court where the presentment is found cannot award process thereof, it cannot receive a traverse of the presentment, as a leet of bloodshed. *Lam.* 542.

That Court that may award process *ad respondendum* upon an indictment, may take a traverse of it. *Lam.* 543.

Presentment of bloodshed found in the Sheriffs turn, and sent to the Justices of Peace, cannot be traversed before them. *Lam.* 542.

One of the enquests presents himself, it is not traversable. *Lam.* 543.

"Where Process *ad respondendum* goeth out upon "an indictment that is traversable, the party may "offer and have his traverse. *Lam.* 542, 543.

"*Quære* whether a man be admitted to traverse a "presentment except it charge him in the frehold. "*Lam.* 543.

Travelling beyond the Seas.

Officer of Ports, or owner of a Vessell, suffering any woman or child under 21 years of age, except Saylers, shipboyes, Apprentices or Factors of Merchants in their trades, to go, or carrying any of them

them beyond sea without license of the King or six of the Privy Counsell under their hands, such Officer of the Ports forfeiteth his office and all his goods, and the master of the vessell his vessel, and imprisonment without bail for twelve moneths, and loseth also all his goods. 3 *Jac. cap.* 4.

Any subject going beyond the seas to serve any forrain State, not taking the oath of allegeance before the Controller or Customer of the Port, or either of their deputy or deputies before his going, shall be a felon: the oath by them to be registred and certified into the Exchequer once every year, or lose 5 l. for every oath not certified. 3 *Jac. cap.* 4.

Any Gentleman, or of an higher degree, or Captain, or other officer in the army before his going beyond sea to serve any forrain Prince or State, must be bound by the Controller or the Customer of the Port, with two sureties allowed by the Officer, unto the King in 20 pound, with condition not to be reconciled to the Pope, nor to practice any thing against the King, but knowing any thing to reveal it: the same bond to be by them registred and certified into the Exchequer once every year, or lose 5 pound for every default. 3 *Jac. cap.* 4.

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without license of the King or six of the privy Counsell, (whereof the principall Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any land, leases, goods or chattels, untill he or they being 18 years old or above, take the oath of Allegeance before one Justice of Peace of the County where the Parents dwelt or dwell: and in the mean time the next of kin, being no Popish Recusant, to enjoy them till he shall conform to take the said oath of Allegeance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the mean profits, and in reasonable time

time to make payment thereof. And the senders loſe 100 pound, one third to the King, another to the ſuer, another to the poor. 3 *Jac. c.* 5.

Vide Tranſportation.

Traveller.

Innekeeper or Alehouſekeeper refuſing to lodge a traveller, Juſtice of Peace, or Conſtable may compell him. *Quære* how, *viz.* to preſent the offence at the Aſſiſes or Seſſions. *Dal.* 28. *Br. Action ſur le caſe* 76.

Sir *James Lee* delivered that the Innekeeper or Alehouſekeeper may for the ſame be indicted, fined, and impriſoned, or the party grieved might have his action. *Dal.* 28.

Treaſon.

Treaſon is a grievous offence done or committed againſt the King in his perſon, the Queen his wife, his Children, Realm, or authority. *Dal.* 227.

As,

To compaſs the death of the King, Queen his wife, or of their eldeſt ſon and heir; or to intend any of their death, though it be not effected. *Dal.* 227.

To deflowre the Kings wife, his eldeſt daughter being unmarried, or his eldeſt ſons wife. *Dal.* 228.

To levy war againſt the King in his Realm. *Dal. ibid. Br. Treaſon* 24.

To conſpire to levy war againſt the King. *Dal. ibid.*

To conſpire with a Governour of another country to invade the Realm. *Dal. ibid.*

To kill one that is ſent on the Kings meſſage. *Dal. ibid.*

To encounter in fight, and kill ſuch as be aſſiſting to the King in his wars, or come to help the King. *Dal ibid.*

To.

To aid the Kings enemies in his Realm. *Dal.* 228.

To counterfeit the Kings great Seal, Signe Manuell, Privy signet, or, Privy Seal. *Dal.* 229.

To take an old seal and put it to a new patent, *quære* whether treason or misprision. *Dal. ibid. Sta.* 3. *C. Br. Treas.* 3. And so of those that without authority set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seal, and so get it sealed. *Dal. ibid.*

To counterfeit the Kings coyn or any coyn current within the Realm. *Dal.* 229.

To bring in any false money, knowing it to be false. *Dal.* 129. 1. & 2 P. & M. c. 3.

"To clip, wash, and lighten or falsifie any coyn "current within the Realm. *Dal. ibid.*

"To coyn money not having authority. *Dal.* "*ibid.*

If he which hath the Kings warrant to coyn doth coyn money in England, and Ireland, or elsewhere less in weight then the ordinance, or coyneth false metall. *Dal.* 229. *Br. Treas.* 19.

All counsellers, procurers, consenters, or aiders of any the forenamed Treasons, are within the purview of the statute 25 *Ed.* 3. *for in treasons all offenders are principall. Dall.* 230.

"Counterfeiting gold or silver not the proper "coyn of this realm, is misprisiō of treason. 14 *E.* c. 3.

To kill the Kings Chancellor, Treasurer, Justice in Eyre, of Assise, of *Oyer* and *Terminer*, being in his place, and doing his office, is high treason. *Dal.* 230.

To extoll the authority of the Bishop of Rome within any of the Kings dominions, and the procurers, counsellers, ayders and maintainers thereof, the first offence is *Præmunire*, the second treason. 1 *El.* c. 1. 5 *El.* c. 1. *Lam.* 411. *Dal.* 231.

So to bring over any books that shall maintain, set forth or defend such authority, and the readers and hearers that shall justifie them. *Dal.* 231.

So

So deliverers of such books to others, with allowance and liking of the same. *Dal. ibid.*

So the Printers and utterers of such books be all within the meaning of the statute. 5 *El. c.* 11. *Dal. ibid.*

Refusing the oath of Supremacy, the first offence is *Præmunire*, the second offence treason. 5 *El. c.* 11. *Dal.* 205. *Lam.* 410.

To obtain from Rome or by any authority from thence any Bull or writing to absolve and reconcile such as will forsake their obedience to the King, and yeeld it to the Pope, or give or take absolution by colour of such Bull, or publish, or put in ure such Bull. 13 *El. c.* 2. *Dal.* 231. *Lam.* 226.

To absolve, perswade, or withdraw any subject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsell, or aid them that do it, is treason. 23 *El. c.* 1. 3 *Jac. c.* 4. *Lam.* 220, 226. 412. *Dal.* 232.

To be willingly absolved, perswaded, withdrawn, or reconciled to promise such obedience, or to procure, counsell, aid and maintain the same is treason, except within six days after their return into the Realm, they submit according to the statute. 3 *Jac. c.* 4. *Dal. ibid.*

For Jesuite, priest, or other Ecclesiasticall person (made by authority from the Pope) to come into, or remain in any of the Kings dominions, contrary to the statute. 27 *El. c.* 2. is Treason.

To compass the death of an usurper of the Crown, is Treason, for which the offender may be arraigned in another Kings time. *Br. Treason* 10. *Dal.* 227.

To intend to deprive, depose, or dis-inherit the King, or say he will be King after the King dyeth. *Dal.* 227.

To set at large unlawfully any committed for

Treason, is Treason by the Common-law *Dal.* 229.

One imprisoned for felony breaketh prison, whereby a Traitor escapeth; it is Treason in him by the Commonlaw. *Dal.* 229. *Cro.* 35 *a.* nu. 5.

Voluntarily to suffer one to escape that is committed, or onely under arrest for Treason; is Treason by the Common law. *Stam.* 32. *Dal.* 229.

Forfeiture in case of Treason is of lands and goods to the King, & at this day by 26 *H.* 8. *cap.* 13. 5 *Ed.* 6. *cap.* 11. his lands entailed, and his wife her dower, saving in certain cases. *Dal.* 234.

Judgement and condemnation of a woman in case of Treason, is to be drawn on a hurdle to execution, and burned. *Stam.* 182, *Dal.* 234.

High treasons declared by a late ordinance 19. January 1653.

1 To compass the death of the Lord Protector for the time being.

2 Maliciously to declare or publish that the Lord Protector and Parliament assembled are not the Supreme authority of the Common-Wealth.

3 Or that the exercise of the chief magistracy over England, &c. is not in the Lord Protector assisted with a Councell.

4 Or that the said authority is tyrannicall, and usurped.

5 Or that there is any Parliament now in being, or any law in force for continuing the Parliament which was dissolved 20 *April* 1653.

6 Or shall contrive or endeavour by overtact to raise force against the Protector, or for subversion or alteration of the present Government.

7 If any person (not being a member of the armies) shall plot, or endeavour any mutiny against the forces, or seduce any souldier from his obedience

to

to his superior officer, or from the present Government.

If any person shall counterfeit the great seal of England, *S.* and *I.* for the time being, or the sign manuell, Privy signet, or Privy seal.

9 If any person shall any ways promote *Charls Steuart*, or *James Steuart*, or any of the posterity of the late King, or any clayming under him to be King of *E. S.* or *I.* or any dominions appertaining.

10 If any shall hold intelligence any ways with the said *Charls Stuart*, *James Stuart*, the late Queen, or any of them.

11 If any counterfeit the present current money, or introduce false money (knowing it to be so) to the intent to trade, or otherwise.

12 If any falsifie, diminish, or clip the monies of this Common-Wealth.

All these recited offences are thereby adjudged Treason. *Ord. 19. January* 1653. And it is further by that Ordinance provided, That all Laws made in the time of Queen *Elisabeth*, or King *James* against the pretended authority of the See of Rome, Jesuites, Priests, and Professors of that Religion shall remain in force.

Treasurer.

"Treasurer for relief of Gaols is to be chosen "at Easter Quarter Sessions by the more part of the "Justices of Peace to be of 5 l. in lands or 10 l. in "goods in the last subsidy, to continue but for one "yeare, and then to give up his account at Easter "Sessions to his successor. 43 *El. c* 2.

"The elected refusing the office, or to give re-"lief or accompt, is to be fined by the Justices in "Sessions, or by Justices of assises by discretion, "but not under 3 l. 43 *El. cap.* 2.

"Treasure for Gaols is to pay over to the Lord

" chief Justice, and to the Knight Marshall quarterly such summs as the Justices of Peace do appoint. 43 *El. cap.* 2.

" Treasurer for maimed souldiers is to be elected by the more part of the Justices at Easter Sessions, and (not being a Justice of Peace) to be 10 l. in lands or 15 l. in good in the last subsidy, to continue but one year, and for refusing the office, or misdemeanors, &c. to be fined by the more part of the Justices, but not under 5 l. 43 *El. c.* 3. and to give up his accompt to his successor, within ten days after the Sessions.

" The Churchwardens are ten days before every Quarter Sessions to pay over to the High-constables the taxation for Gaoles. 43 *El. c.* 2. And the Churchwardens and petty Constable at the same time to pay the High-constable the taxe for maimed souldiers. 43 *El. c.* 3. and the High-constables are to pay the same to the Treasurers at the next quarter Sessions. 43 *El. c.* 2 & 3.

" If default of payment be made by the High-constable, he doth incur the penalties, *viz.* of 20 shillings a time for the Gaolmoney. 43 *El. c.* 2. and of 40 shillings for souldiers money, *c.* 3. And if default be in the Churchwardens, for gaol money 10 shillings a time. If for souldiers money the Churchwardens and petty Constables lose 20 shillings a time. 43 *El. c.* 2. & 3. The said forfeitures to be levied by the Treasurer by distress and sale of the offenders goods, and taken in augmentation of the stock.

Tresp[illegible]s, *vide* Hedge-breakers.

Tryall.

As well Noblemen as Gentlemen in cases of Felony or Treason, or misprision of Treason, are to be tryed by their equals. *Lam.* 539.

All

In Riots, Routs, unlawfull assemblies and forcible entries, Nobility shall be tryed by common jurours. *Lam.*539.

All forrain Pleas tryable by Jury, and pleaded by any indicted of Treason, Murder or Felony, shall be tryed in the county where the party is arraigned, and by Jurors of that county. 22 *H.* 1. *c.*14. 32 *H.*8. *c.*3. *Lam.*552.

Aliens indicted of Felony or Murder, must be tryed *per medietatem linguæ. Lam.*554.

Peer of the Realm indicted of Treasons upon the statute of 3 *Jac.c.*4. is to be tryed by his Peers. 3 *Jac. cap.*4.

All Treasons, misprision of Treasons, and concealment of Treason done or committed out of the Realm, shall be enquired and tryed within the Realm. 35 *H.*8. *c.*2. *Dal.*235. *Co. Inst.*261. *b.*

"He who is no Lord of the Parliament, being "arraigned for Treason or Felony, shall be tryed by "Knights and others, and not by Lords of the Par-"liament. So shall Bishops by reason that they are "Lords of the Parliament by their office, and not in "respect of their Nobility. *Cro.* 110. *b.* nu. 6. *Stams.* "153. *a.*

Turn of the Sheriff.

Indictment at the Sheriffs Turn to be certified to the Justices at the Quarter Sessions. *Vide* Certificate.

Sheriffs Turn to be holden within a moneth after Easter, or within the moneth after Michaelmas. *Lam.*504.

Estreats of the Justices of Peace of Fines assessed upon presentments in the Turn being inrolled and indented, are to be levied by the Sheriff to the use of him that was Sheriff at the time of presentment 1 *Ed.*3. *cap.*7. *Lam.*585.

VAgabonds, *vide* Rogues.

Venire facias.

Justices of Peace may award a *Venire facias* against the enditour to amend a Bill upon the first oath. *Lam.* 507. 8 *H.* 5. *c.* 8. *Stam.* 97.

Justices of Peace cannot award a *Venire facias tot matronas*, to know whether a felon be with child or no. *Lam.* 551.

Verdict.

"The Jury in case of felony may give a speciall "verdict, if they will, and the court, upon examina- "tion of the matter, may adjudge contrary to the "verdict. As, The Jury found that *A.* killed *B. se* "*defendendo*, and upon examination of the matter, "the court adjudged it to be manslaughter against "the verdict. *Cro.* 114. *a* nu. 1.

"Though the indictment specifie the goods to be "above 12 d. yet the Jury may say that the goods "were worth but 8 d. upon which verdict it shall be "taken as petty larceny. *Cro.* 114. *a.* nu. 2.

"A man is arraigned of murder, and by the Jury "it is found but manslaughter, it is good, *Cro.* 114. "*a.* nu. 3.

Vessels.

Vessels of ale and beer are to be made of seasoned wood, with the marke of him that sealed it. *Lam.* 460.

Every barrell for beer and every barrell for ale, and so every lesser vessell by 32 *H.* 8. *c.* 4. ought to contain under

under pain of 3 ſhillings 4 pence for each default.

Beere { Barrell 36. / Kilderkin 18. / Ferkin 9. } Ale { 32 / 16 / 8 } Gallons.

But now by the ſtatute 1 *Jac. c.* 9. ale and beer ſhall be ſold by retail by one and the ſame meaſure, namely by the ale-quart. *Cro.* 94. *b. Dal.* 152.

Vide Aſſiſe of Bread and Beer.

Wine	Tunne	252.	Gallons. *Dal.* 152.
Oyle	Pipe	126.	
Hony	Hogshead	63.	
	Barrell	32. and half.	
	Runlet	16. and half.	

But *Crompton* 94. *b.* ſaith, *Popham* chief Juſtice ſaith that the meaſure of wine and ale ſhould be all one, and that ſo it was agreed by the Juſtices according to the ſtandard of the Exchequer. But note, ſaith *Crompton* there, that the ale-quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there ſhould be a nick in the top of the wooden kan, where the meaſure ſhould be, to which nick the ale ſhould come. *Cro.* 94. *b.* And ſo Mr. *Wallis* Clerk of the Quarter market told him, January 25. 1588.

Herring the barrell, half barrell, firkin, ſhall be of the ſame content that ale is, namely the barrell 42. Gallons, &c. 13. *El. c.* 11, 11 *H.* 7 *c.* 23. *Dal.* 153.

Sope and Butter ſhall be of the ſame content with ale, and the empty barrell not to be in weight above 26 l. and for the other veſſels in proportion. 23 *H.* 8. *c.* 4. *Dal* 151. *Lam.* 461. The penalty is 3 ſhillings 4 pence for each one.

Victuals and Victuallers.

If Butcher, Fishmonger, Inholder, Tipler, Brewer, Baker, Poulterer, and other seller of victuall do sell at unreasonable rates, and not for moderate gain, they lose double value. *Lam.* 454. 23 *E.* 3. *c.* 6. & 13 *R.* 2 *c.* 8.

Brewer selling drink at higher prices then have been appointed by the Justices of Peace, loseth after the rate of 6 shillings a barrel. 23 *H.* 8. *c.* 4. *Lam.* 455.

Conspiracy or oath taken, or promise made by Butchers, Bakers, Brewers, Poulterers, Cooks, Fruiterers, or any mystery, or any of them, not to sell but at prices agreed between them, the first offence 10 pound, or 20 days imprisonment; the second, 20 pound or Pillory; the third, 40 pound, or lose an ear. 2 *Ed.* 6. *c.* 15. *Lam.* 455.

To sell swines flesh mezelled, or flesh that dyed of the murrain, or other corrupt victual. *Stat. de pistoribus, cap.* 7. 51 *H.* 3. *Lam.* 455. is fineable.

Any except victuallers in their houses, buying to sell again by retail butter or cheese, unless it be in open Fair or Market, loseth double value. 3 *Ed.* 6. *ca.* 21. 14 *E. c.* 11. 27 *El. ca.* 11. *La.* 456. 1 *Jac. ca.* 25.

Process upon the statute of 23 *H.* 6. *c.* 13. against victuallers is Attachment, *Capias*, and Exigent.

Brewer or other selling of ale or beer unto any unlicensed Alehouse-keeper, other then for necessary provision for his own household, loseth after the rate of 6 shillings 8 pence a barrell, one moity to the poor, the other to the informer to be heard and determined at the Quarter Sessions 4 *Jac. cap.* 4. *Lam.* 460.

The officer levying the penalty of 4 *Jac. c.* 4. and not delivering the moity to the Churchwarden or Overseers of the poor, or not distributing it within convenient time after receipt, forfeiteth the double to be recovered as the penalty. 4 *Jac. c.* 4.

Victu-

Victualler is within the statute 1 *Jac. c.* 9. 4 *Ja. c.* 5. 1 *Car. c.* 4.

Vide Transportation, Alehouses, Tipling.

Undersheriff.

Custos Rotulorum, or two Justices of the Peace, one to be Quorum, may give unto Undersheriffs before they exercise their office, the oaths of 1 *Eliz.* of supremacy, and 27 *Eliz. c.* 12. touching their office; so of their deputies and Clerks, or any other meddling with returning of writs or execution of process into any Court of record. So of Bailiffs, any of them executing their office before such oaths taken, lose 40 pound. 27 *El. c.* 12. *Lam.* 356, 432, 433.

Undersheriff or his Clerk or deputy doing any thing against their oath, lose treble damages to the party. *Lam.* 433.

Unlawfull games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cayls, tennis, casting the stone, football, or other unlawfull game now invented, and hereafter to be invented, shall be suspected to be used, and may arrest the keeper of every such place, and may imprison them untill they finde sureties by recognisance no longer to use such house, game, play, alley or place. 33 *H. 8. c.* 9. *Lam.* 191. *Dal.* 64. *Cro.* 79. *a.* 131. *a.* 196. *a.* 197. *b. Lam.* 349, 479.

Justice of Peace may arrest and imprison such players till they be bound no more to play at such game. *Lam.* 192. *Cro.* 172. *a. b. Lam.* 349, 479. *Dal.* 63.

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, water-

man, or ſervingman, other then of a Nobleman or of him that may diſpend 100 l. by the year, playing within the precinct of his maſters houſe, ſhall not play out of Chriſtmas at any unlawfull game, or in Chriſtmas out of the houſe or preſence of his maſter. 33 *H.*8.*c.*9. *Lam.*479. 20 ſhillings every time. *Quære* if other games beſides thoſe prohibited 33 *H.*8.*c.*9. be unlawfull, as the morrice and other open dances, bear-baitings, common-playes, and fencings, which ſeem to be prohibited by 39. *El. ca.*4. *Dal.*63.1 *Car.c.*1.

All offences againſt the ſtatute of unlawfull games may be heard and determined at the Quarter Seſſions, Aſſiſes, or leet within which they ſhall happen. *Lam.* 614. *Vide plus* Sunday.

Unlawfull aſſemblies.

An unlawfull aſſembly is of the company of three or more perſons diſorderly coming together, forcibly to commit an unlawfull act, as to beat a man, or enter upon his poſſeſſion, or the like. *Lam.* 175. *Dal.* 221 *P.R.*25. *Cro.*61. *a.*nu.3.

Firſt an unlawfull aſſembly it is, onely to meet to ſuch a purpoſe, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of ſuch act, whether it be done or no, is a Rout. Thirdly, to execute ſuch a thing, is a Riot. *Dal. ibid. Lam.* 175, 176. *Cro.* 61. *a.*nu.3.

In an unlawfull aſſembly, Rout or Riot, two things are common, and muſt concurr, firſt, that three perſons at leaſt be gathered together; ſecondly, that their being together breed ſome apparent diſturbance of the peace, either by ſpeech, ſhew of armour, turbulent geſture, or actuall and expreſs violence to affright peaceable men, or imbolden light and buſie bodies by their examples, *Lam.*176, 177.

There be three degrees of ſedicious and riotous aſſem-

assemblies: the first from three to twelve; the second of 12 or more; the third of 40 and upward. *Lam.* 183. 1 *El. c.* 17. Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance, *Lam.* 184.

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24 hours after reveal the same, *Lam. ibid.*

Vide Forcible Entry, Riots.

Usury.

Corruptly to contract for more then 8 pound in the hundred, for forbearance for one year, loseth treble value of the moneys, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted. 21 *Jac cap.* 17.

Scriveners taking above five shillings for procuring 100 pound, and for a bond above 12 pence forfeit 20 pound, *ibid.*

Utlawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Justice or in affray of the people, being indicted thereof, if they be brought in by attachment or distress (for insufficiency) are to be outlawed. 8 *Ed.* 3. *c.* 5. *Lam.* 522.

After Utlawry the Justices of Peace can award no process, but must certifie the Utlawry into the Kings Bench, *Lam.* 521, 522.

One outlawed of felony before Justices of Peace doth appear and saith he was in the Kings service beyond sea under such a Captain, or in prison in such a County; the Justices cannot write to the Captain or County, *Lam.* 552.

Wages.

RAtes of Wages of ſervants and labourers are to be made by the Juſtices of Peace at Eaſter Quarter Seſſions, and by them to be ingroſſed in parchment under their hands and ſeals, and after it ſhall be lawfull for the Sheriff of the ſaid County to cauſe proclamation to be made of the ſeverall rates ſo rated in ſo many places of their ſeverall authorities, as to them ſhall ſeem convenient, and as if the ſame had been ſet down printed by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majeſty, and certificate thereof into the Chancery. 39 *El. c.* 12. 1 *Jac. c.* 6.

Any giving wages contrary to the rates appointed and proclaimed, loſeth 5 pound. 5 *El. c.* 4. 1 *Jac. c.* 6. *Lam.* 474.

Every Juſt. of P. (not having lawfull excuſe teſtified by oath of one that is in ſubſidy 5 pound, &c.) that ſhall not aſſemble at Eaſter Seſſions, or within 6 weeks after, to rate the wages of ſervants, &c. ſhall loſe 10 pound, 5 *Eliz. cap* 4. *Lam.* 632.

Any having authority by 5 *Eliz. c.* 4. to rate wages, may rate the wages of labourers, weavers, ſpinſters, and of any working by day, week, moneth or year, or by great, 1 *Jac. cap.* 6

No penalty for not certifying the rates of wages into the Chancery, according to the ſtatute of 5 *El. c.* 4. if they be duly proclaimed, 1 *Jac. c.* 6.

Rates of wages ingroſſed in parchment are to be kept by the *Cuſtos Rotulorum*; if in a Corporation, amongſt the records thereof, 1 *Jac. c.* 6.

Any two Juſtices of Peace may impriſon without bail the maſter for ten days for giving, and the ſervant, workman or labourer for 21 days, for taking greater wages then are aſſeſſed by the Juſtices of Peace, and Proclamation thereof made in that county, 5. *El. c.* 4. *Dal.* 80. Every retainer, promiſe or payment

ment of wages, or other thing whatsoever, contrary to the true meaning of 5 *El. c.* 4. and every writing and bond for that purpose is utterly void, *Dal.* 80.

Justice of Peace may have his action of debt against the Sheriff for his wages at the Sessions, *Cro.* 177. *a.* nu. 23.

Justices of Peace shall be paid their wages out of the fines, and amerciaments of the same Sessions, and they ought to assesse the fines in the Court, and then the Clerk shall indent the estreats betwixt the Justices and the Sheriff, and the Justices shall put their names thereto, to the end the Sheriff may know to whom to pay wages, and levy the same to pay to the Justices, whereupon the Sheriff shall be allowed the same upon his accompt in the Exchequer. 14 *R.* 2. *c.* 11. *Lam.* 628. *Cro.* 177. *a.* nu. 30.

Wainlings.

Any killing any wainling Calves under two years old to sell, lose 6 shillings 8 pence for every offence determinable at the Quarter Sessions, 24 *H.* 8. *cap.* 9. 1 *Jac. cap.* 25. *Lam.* 453, 607.

Waitlying.

Lying in wait to maim or kill any other, is to be fined, *Lam.* 446.

Warrants.

The Justice of Peace his command by word of mouth is in some cases as strong as his precept in writing, *Dal.* 336.

As,

A Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to finde sureties

ſureties for their good behaviour, *Dal.* 336.

So upon affray, aſſault, threatning or any other breach of the Peace done in his preſence, he may command the officer being peſent to arreſt ſuch offenders to finde ſurety for the Peace, *Dal.* 336.

But for cauſes out of his preſence one may not arreſt another upon the Juſtices command, but by precept in writing, *Dal. ibid. Br. Peace* 7.

A warrant in writing muſt be under the Juſtices hand and ſeal, or under his hand at leaſt, *Dal.* 336, *Lam.* 85, 88. But it is better if under ſeal, *Dal.* 337.

A warrant for the Peace or good behaviour muſt contain the ſpeciall matter, *Dal.* 336, *Lam.* 87. but it is better under his ſeal, *Dal.* 337.

A warrant for treaſon, murder or felony, or other capitall offence and ſuch like, need not contain the ſpeciall cauſe, *Cro.* 148. *a. Dal.* 337.

A warrant is better if it contain and bear the date at the place where it is made, the year and day when it was made, *Cro.* 174. *a. Dal. ibid. Lam.* 88.

Juſtice of Peace being out of the county, granteth his warrant to be ſerved in the county; the officer muſt carry the party before ſome Juſtice of Peace within the county, *Dal. ibid. Lam* 91.

The county written in the margent of the warrant, albeit it be not expreſſed in the warrant, and *in Com. prædicto*, ſhall have relation to the county ſet in the margent, *Cro.* 102. *b.* nu. 29.

Juſtice of Peace may make his warrant to come before himſelf: yet upon a warrant for the Peace the uſuall manner is otherwiſe, *Co.* 5. 59, *Dal.* 170. & 338.

In ſome caſes a Juſtice of Peace may grant his warrant to attach the offender to be at the next Seſſions of the Peace, to anſwer his ſaid offence, *Dal.* 338.

"Juſtice of Peace may grant his warrant againſt "one that hath broken the Peace, or committed miſ-

"misdemeanors against the Peace, to finde sureties "for the Peace, or good behaviour, *Dal.* 34, 162, "165, 338.

Justices of P. in divers cases (as the case shall require) may grant their warrant for the parties neglect, or other default: and such warrant may be either to attach him to be at the next Sessions, there to answer, &c. or to bring the offender before the said Justices, or any other Justice, &c. who finding cause to binde him, may binde him to the next Sessions to answer the said default, *Vide Dal* 338. & 160.

Where the statute giveth authority to Justices of Peace to cause another to do a thing, they have power of congruity to grant their warrant to bring such persons before them, that so they may take order therein. *Quære Dal.* 338.

A Justice of Peace maketh a warrant beyond his authority, it is not disputable by Constable or other inferiour officer, but must be obeyed, *Lam.* 65. *Dal.* 8. 242, 342.

But if the Justice make a warrant to do a thing out of his jurisdiction, or in a cause wherein he is not Judge; if the officer execute the warrant, he is punishable, *Dal.* 342. *Cro.* 147. *b. Dal.* 8. *Lam.* 91, 92.

Warrant for the Peace may be directed to any indifferent person by name, though he be not officer: yet it is better to a known officer, *Dal.* 340. *Cro.* 147. *a. Lam.* 88.

A sworn and known Officer need not to shew his warrant; but the servant of the Justice must shew it if it be required, *Dal. ibid. Lam.* 89. *Cro.* 148. *a.*

A warrant directed to the Constable, and to a stranger joyntly and severally, and executed solely by the stranger, is good, *Cro.* 147. *b. Dal.* 340.

Warrant directed to two joyntly to arrest another, may be executed by one of them, *Dal.* 340. *Lam.* 89.

"A Justice of Peace may make his warrant to the "Sheriff to attach one to bring him to the Sessi-

ons

" ons to finde ſurety of the Peace, *Cro.* 136. *a.*

A warrant being directed by a Juſtice of Peace to the Sheriff, he may by word command any ſworn or known Officer under him without precept in writing, *Dal.*340. *Lam.*89.

If a Juſtice of Peace his warrant be directed to the Sheriff, Bailiff, Conſtable, Juſtices ſervant, or other to arreſt one, ſuch perſon muſt ſerve it himſelf, *Lam.*89. *Dal.*340.

He to whom any warrant ſhall be directed, muſt do it with all ſecrecy and ſpeed, *Dal. ibid.*

A known officer muſt if he will not ſhew his warrant upon arreſt, declare the contents of his warrant, *Co.*6.54. & 9.68,341.

Upon arreſt in the Kings name, the party arreſted ought to obey, *Dal. ibid.* for if he have not lawfull warrant, the party grieved may have his action of falſe impriſonment, *Dal. ibid. Co.*9.68.

An officer arreſting a man doth afterwards procure a warrant; this is a wrongfull arreſt, *Dal.*341. *Lam.*90, 91.

The officer having a warrant for the peace, or good a bearing, may break open the doors, *Dal.* 341, *Cro.* 170. *b.*

One is arreſted, who upon promiſe to come again is let go, and cometh not again; the officer cannot arreſt him by force of his former warrant, except he proſecutes him with freſh ſuit, *Dal. ibid. Br. Faux impr.*18.

An officer having a lawfull warrant to arreſt another, is reſiſted or aſſaulted by the party or any other perſon; the officer may juſtifie the beating or hurting ſuch perſon, *Dal.*341, *Lam.*92.

If any abuſe the warrant, as by caſting it in the dirt, or treading it under his feet, he ſhall be indicted and fined; for it is the Kings proceſs, *Dal.* 341, *Cro.* 149. *Quere*, whether he ſhall not be bound to his good behaviour, *Dal. ibid.*

Before

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to binde him to give evidence at the next gaol-delivery, *Dal.* 342.

"Justice of Peace is not to grant his wrant against "an offender of a penall statute to appear at the "Sessions unless it be appointed by statute, but he "ought first to be indicted, *Lam.* 187, *Dal.* 339, *Cro.* "197.*a.*nu.21.

"Justice of Peace cannot make a warrant to arrest "a felon except he be indicted, *Cro.* 147.*b.* But *Dal-* "*ton* argueth that a Justice of Peace may make such "a Warrant, *Vide Dal.* 339.

"One wrote to a Justice of Peace to send him a "Warrant with a blank, to insert therein one whom "he would attach for suspicion of felony. The Ju- "stice did so: And for that he sent his Warrant "with a blank, to put in a name which he knew not, "nor the matter before the making of the warrant, "he was fined in the Star-chamber, *Cro. Jurisd.* 34. "*a. Dal.* 337.

"All warrants made in the Kings name, ought "to be directed, to all Ministers as well within "liberties as without, *Dalton* 355.

"Warrants may be made either 1 in the name of "the King, Or 2 in the name of the Justice; and "either of them must be testified by the Justice from "whom they issue. Or 3 without style by the Subscri- "ption of the Justice, *Dal.* 335.

To what Officers Warrants are to be directed by particular statutes.

"To the Churchwardens, for negligent commers "to Church, to levy 12 d. 3 *Jac. c.* 4.

"To the Constable or Churchwardens against

an

" an Alehouſe-keeper, to levy 10 ſhillings for ſuf-
" fering tipling, 1 *Jac.c.9.*
" To levy 20 ſhillings for breaking the Aſſiſe,
1 *Jac.c.9.*
" For ſelling Ale without licenſe 20 ſhillings,
" 3 *Car.c.4.*
" For tipling in an Alehouſe 3 ſhillings 4 pence,
" 1 *Jac.c.9.*
" For abuſes on the Lords day, 1 *Car.c.1.*
" For Carryers on the Lords day 20 ſhillings,
" 3 *Car.c.1.*
" Shewing boots to ſell on Sunday 3 ſhillings four
" pence 1 *Jac.c.22.*
" To the Conſtables, Churchwardens, or Over-
" ſeers of the poor for ſwearing 12 pence, 21 *Jac.*
" *c.20.*
" To the Conſtable or other inferiour officer for
" drunkenneſs 5 ſhillings, 4 *Jac.c.5.21 Jac.c.7.*

Warreners, *vide* Forreſters.

Watches.

Any Juſtice of Peace may cauſe night-watches to be kept for the arreſting of night-walkers and perſons ſuſpect, be they ſtrangers or others of evil fame, *Dal.* 144.13 *E.* 1 *Stat.Winton. c.4.*

Watch is to be kept yearly from Aſcenſion day till Michaelmas in every town, from ſun ſetting to ſun riſing, *Dal.*144.*Lam.*449.

All ſtrangers or perſons ſuſpected, paſſing by the watching men, may be examined by them: and if there be cauſe of ſuſpicion, they may ſtay them, and if they will not obey, may levy hue and cry, and may juſtifie to beat them, and may ſtop them till morning; and if they finde no cauſe of ſuſpicion, deliver them; but if they finde cauſe, may deliver them to the Conſtable, to carry them before a Juſt. of Peace, *Dal.*144,300.

Any

Any Justice of Peace may cause all nightwalkers, strangers or other suspected, especially such as sleep in the day and walk in the night, to be arrested, and such as in the night haunt any house suspected of bawdery, or use suspicious company, or commit other outrages or misdemeanours, and cause them to finde sureties for their good behaviour, *Dal.* 88. *Lam.* 118, 119.

No man is compelled to watch unless he be an inhabitant in the town, *Dal.* 145.

"Inhabitants are not compellable to watch at the "will of the Constable, but when his turn cometh. "*Dal. ibid.*

Watermen.

Every Justice of Peace within the shire next adjoyning to the river of Thames within his jurisdiction, hath power upon complaint by the overseers or rulers of the Watermen and Wherrymen, or two of them, or by the masters of any such servants, both to examine, hear & determine all offences against the statute, and set at large him that shall be imprisoned by the overseers, and rulers, if there be just cause, and also by his discretion to punish those overseers and rulers, that shall unjustly punish any person. 2. & 3 *Ph.* & *Mar. c.* 16. *Lam.* 203. *Dal.* 145.

The offences against the statute are,

2 No single man shall be a waterman, 1 *Jac. c.* 16.

2 One of the two rowing in one boat must be allowed by eight of the overseers by writing under seal.

3 They shall not hide themselves in time of pressing for the Kings service.

4 They shall not take for their fare above the price assessed, and set up in tables in Westminster Hall. *Dal.* saith, *quære* whether the Justices of Peace be to meddle with this.

Wax.

Wax.

One Justice of Peace may examine and search by his discretion such as do sell any candles, or work of wax above four pence in the pound clear gain over the price of the Wax, and punish them by forfeiture of that which is to be sold, and the value of that which is sold, and fine to the King. *Dal.* 145. *Lam.* 196, 469. 11 *H.* 6. *c.* 12.

Weapons which be forcible, *Vide* Forcible Entry.

Weeres.

Weeres in rivers may be surveyed by one Justice of Peace, which he may cause to be made of a reasonable wideness. *Lam.* 189.

Any making Weeres within five miles of the mouth of any haven or creek, or by Weers destroying any fry of fish of the sea, loseth 10 pound, one moity to the King, the other to the informer. 3 *Jac. c.* 12. *Dal.* 56. explaineth the particulars of that stat. of 3 *Jac. cap.* 12.

Weights and Measures.

Faults of the officers of Cities and Boroughs in not viewing and examining weights and measures twice a year, to be heard and determined by examination and enquiry of two Justices of Peace, one being of the Quorum, and by them to be fined and amerced; and so of faults of buyers and sellers by other weights and measures than they ought to do. 11 *H.* 7. *c.* 4. 12 *H.* 7. *c.* 5. *Lam.* 356. *Dal.* 146.

Two Justices of the Peace (one of the Quorum) may

may break and burn such measures as they finde defective, and fine the offenders by their discretion, and make process against them as in trespass. 12 *H.7. c.5. Lam.356 Dal.146. 11 H.7.c.4.*

Mayors of towns taking above a penny for sealing a bushell or other measure, or for weights above a penny for an hundred, an half penny for half an hundred, a farthing for a less weight, lose 40 shillings, 11 *H.7.c.4. Lam.437. Dal.155.7 H.7.c.3.*

Buying and selling by unlawful weights or measures, or in any City or market, with any weights or measures that are not lawfully marked or signed, he loseth for the first offence 6 shillings eight pence, for the second offence 13 shillings 4 pence, and for the third 20 shillings and Pillory. 11 *H.7.c.4 Lam.460.*

To buy corn by heaped measure, except on shipboard, or to use double measure, the one to buy, the other to sell with, the first offence is six shillings 8 pence, the second 13 shillings 4 pence, the third 20 shillings and Pillory. 11. *H.7.c.4. Lam* 460. 15 *R.2. c.4. Stat. de Pistoribus c.8.*

Those of the town where the Kings Standard is appointed to remain, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced. 11 *H.7.c.4. Lam.* 460. *Dal.* 155. *Vide plus* Vessels.

There shall be but one weight, one measure, and yard, according to the Standard of the Exchequer in all places whatsoever within the Realm.

Every measure of corn shall be stricked without heaps; and who shall sell by, or keep any other weight, measure, or yard, then as above said, whereby any thing is bought, or sould, shall forfeit for every offence 5 shillings being convicted by the oath of one witness before any Justice, &c. to be levied by the Churchwardens, or Overseers of the poor, and to their use by distress, and sale of the offenders goods,

and

and for want thereof imprisonment untill payment. *Act. Anno 17. Car. Mag. Charta. cap. 25.*

And yet there always hath been, and now are here, two kinds of weights, and both warrantable; the one by Law, which is the Troy weight, 12 ounces whereby are weighed pearls, precious stones, gold, silver, bread, wheat, and such like: and the other by custome which is Averdepois: and is 16 ounces, and thereby are weighed Grocery wares, Physicall druggs, Butter, Cheese, Flesh, Iron, Steel, Lead, Hemp, Flax, and every thing Garbleable whence issueth any wast, or refuse, this is *libra civilis*, and the other *medica*.

Witchcraft.

Invocation, Conjuration, consultation, covenant, entertainment, imployment, feeding or rewarding any evill spirit, taking up of dead bodies, or any part thereof, to be employed in Witchcraft or Charms, or using any manner Witchraft, whereby any person shall be killed, or any part of them wasted or lamed, and also the accessaries, is felony without Clergy. 1 *Jac. c.* 12 *Lam.* 415. *Dal.* 280.

By Witchcraft or Charms to finde out hidden treasures, to tell where lost goods shall be found, to provoke unlawfull love, to destroy or hurt any mans body, or to attempt any of them, the first offence is one yeers imprisonment without bail, and to stand in the Pillory six hours every quarter of the same yeer, and confess his offence; the second is felony without Clergy. 1 *Iac. c.* 12. *Lam.* 415.

Tryall of Noblemen upon the stat. of 2 *Iac. c.* 12. of Witchcraft is to be by his Peers *Lam.* 415.

Attainder upon the stat. 1 *Iac. c.* 12. of Witchcraft, neither loss of Dowr, nor corruption of Blood. 1 *Iac. c.* 12. *Lam. ibid.*

Wines.

Wines.

Wines brought in ſtrange bottoms from *France* into any part of *England*, except the Iſle of *Man*, and *Wales*, forfeit the Wines. 27 *El.c.*12. *Lam.*457.

Any licenſed to retail wine ſelling above the prices limited by Proclamation, loſe 3 ſhillings 4 pence for every Gallon. 27 *El. c.* 11. *Lam.*458. 5 *El.c.*5.

Any under a Barons ſon, or under 100. marks a yeer, or 1000. marks in goods, keeping to ſpend in his houſe any veſſells of *Gaſcoigne* wine, *French* or *Rochel* wine, above 10 gallons, loſeth 10 pounds 7 *E.* 6.c.5. *Lam.*458.

Woad.

Woad brought from *France* into any part of *England*, except the Iſle of *Man* and *Wales* in a ſtrange bottom, forfeiteth the Woad. 27 *El.c.* 11. *Lam.* 457. 458.

Wood.

Upon complaint of the Lord, and diſ-agreement of the Lord and his commoners, the fourth part of the Lords wood may be ſet forth by two Juſtices appointed by the greateſt part of the Juſtices at their ſeſſions, and not being of kindred or alliance, or fee to the Lord, 35 *H.*8.*c.*17. 13 *El.c.*25. *Lam.*359.

Juſtices in Quarter Seſſions may call before them the owner of the wood, and 12 of the Commoners to ſet out the fourth part. *Lam.*609.

Ingroſſer or Regrater of Bark, forfeiteth the Bark. 1 *Jac.*22. *Lam.* 452.

Any ſelling of Oaks meet to be barked, before Aprill, or after June, except for neceſſary building, or repairing of houſes, ſhips, mills, loſe the Oake, or double value. 1 *Iac.c.*22.

Pur-

Purveyors taking Timber for the repair of the Kings ships or houses, the owner may retain all the Barks lop and top, and the Purveyor taking them, loseth for every tree 40 shillings to the party grieved. 1 *Iac.* 22. *Lam.* 438.

Wooll and Wooll seller.

Buyer of Wooll of any other than the owner of the sheep or tithe, lose the value. 14 *R.* 2. *c.* 4. *Lam.* 452.

Woollen-yarn.

Buyer of Woollen-yarn, and not making it into cloth, loseth the value thereof. 8 *H.* 6. 5. *Lam.* 452.

Any sorter, carder, kember, spinster or weaver, receiving wooll and yarn of any clothier or maker of stuff, and embezelling, selling, or detaining the same, and the Receiver or buyer knowing thereof, upon conviction, by confession or oath of one witness before two Justices of Peace, is to make such recompence to the party, as the Justice shall appoint: and the offender being unable and refusing to do it, is to be whipt or stocked. 7 *Iac.* 7. *c.* 7.

Women.

Women arraigned for felony, may onely for one time have the benefit of their belly. *Lam.* 563.

Justice of Peace cannot award a *Venire facias to matronas*, to know whether a Woman felon be with child. *Lam.* 551.

Taking away a woman against her will that hath land, &c. or is heir apparent, not claiming her as ward, and after marry or defloure her is felony without Clergy. So of the procurers abetters and receivers knowing thereof. 3 *H.* 7. *c.* 2 *Lam.* 421.

A woman being delivered of a Baſtardchild, and born alive, that endeavoureth privately by drowning, ſecret burning, or other way by her ſelf, or procuring of others to conceal the death thereof, as that it may not come to light whether it were born alive or dead, ſhall ſuffer as in murder, except ſhe can prove by one witneſs that the childe was born dead. 21 *Iac.* 27.

Women convicted of felonious taking above 12 pence and under 10 ſhillings being not Burglary or Robbery in or near any high way, nor taking of money, goods, or chattels from the perſon of any, privily or as acceſſary to any ſuch offence, wherein a man may have his Clergy, ſhall for the firſt offence be burned in the hand and further impriſoned, whipped, and ſtocked, or ſent to the houſe of Correction (not above a yeer) as the Juſtices before whom the conviction is, ſhall think meet. 21 *Jac.* 6. *Dal.* 272. 273.

Wife and her husband are bound to appear at the ſeſſions, and in the mean time to keep the peace. The husband onely appearing, the Recogniſance is not forfeited. *Dal.* 179. *Quære tamen. Cro.* 144. b.

Resolutions of the Judges of *Assises*, 1633.

1. *Question:*

WHether the Churchwardens and Overseers of the poor of a Parish with assent of two Justices of the Peace, one being of the Quorum, may by the Statute of 43 *Elizabeth*, *cap.* 2 any law enforce a Parishioner of the same Parish take a childe of a poor parishioner of the same parish who is not able to keep his said childe, to be an apprentice?

Resol. The Statute of 43 of *Elizabeth*, which said that the Churchwardens and Overseers of the Parish shall put out Children to be apprentices, necessarily implyeth, that such as are fit must receive Apprentices, and the putting out of poor children to be apprentices is one of the best wayes for the providing for the poor.

2 Q. If they may, then whether they must give money with him, and who shall determine what money shall be given with him, if the party that is to take such an apprentice, and the Churchwardens, and Overseers cannot agree thereupon?

Resol. There is no necessity that money must be given, but that must be left to the discretion of the Churchwardens, and Overseers, all circumstances of age and ability being considered, and if they cannot agree with the party, then the Justices of Peace near adjoyning: or in their default the Sessions of Peace are to determine these Controversies.

3 Q. Whether a Knight, Gentleman, Clergyman, or Yeoman, or one that is Sojourner, using husbandry, cloathing, or grasing, or the like, may be enforced to take such an apprentice?

Resol. Every man who is by calling or profession or manner of living, that entertaineth, and must have the use of other servants of the like quality, must entertain such apprentices, wherein discretion must be given upon due consideration of circumstances.

4 Q. Whether a wealthy man keeping few or no servants, not wanting a servant, but living privately may be enforced to take such an apprentice; if not, then whether he may be taxed towards the putting forth of such an apprentice?

Resol. For the receiving of such apprentices, the answer may be referred to the question next before; but out of doubt every such person must contribute to the charge, as to other charges for the provision for the poor.

5 Q. Whether they may enforce a parishioner that is of one parish, to take such a child apprentice, that is of another parish, but within the same County or division, if the proper parish be not able to provide for the children of the same parish?

Resol. The Justices may provide Masters for them in other parishes within the same hundred; if the same hundred be not able, then out of that hundred in the rest of that County, as for other provision for the poor, which must be at a quarter Sessions.

6 Q. If such a Parishioner may be enforced to take such an apprentice, and shall refuse not onely to take such an apprentice, but also refuse to be bound to appear at the next quarter Sessions, or Assises, what shall be done to him?

Resol. If any refuse; let such a one be bound over to the next Sessions or Assises; if he refuse to give such bond, let him be sent to the *Gaol*, there to remain untill he will give such bond.

7 Q. If such a Parishioner who refuseth to take such an apprentice shall be bound over to the Sessions for not taking such an apprentice, and when he appeareth there, shall likewise refuse, what shall be

done to him, and what shall be done to the parents who refuse to suffer their Children to be put out to be apprentices, themselves not being able to maintain them?

Resol. If at the Sessions or Assises such a one refuseth to take an apprentice, and his excuse be not allowed, it is fit he be bound to the good behaviour, and it will be a good course to indict such a refuser for a contempt, and thereupon to fine and imprison him, if he refuse to be bound to the good behaviour, let him be imprisoned untill he will; and the Kings book of orders directs that such be bound with good sureties to appear at the Councell board; and if the Parents of such poor children refuse to suffer their children to be bound apprentices, or being bound, entice them away, themselves not being able to maintain them, let them be committed to the house of correction.

8 Q. Whether it be in the power of any generall quarter Sessions to mitigate any penalty upon a Statute law, if the party indicted shall submit himself to the fine of the Court, and wave the traverse?

Resol. If the party be convicted or confess the fault, it is not in the power of the Court to mitigate the fine, in such cases where the Statute makes it certain: but if the party indicted protesting his Innocency, yet *quia noluit litare cum domino Rege* puts himself up into the grace of the Court, the Court may impose a moderate fine, and order to forbear the prosecution.

9 Q. If any be bound to appear at the Sessions, and shall tender submission to the Court, whether the Sessions may stay the indictment, and mitigate the fine aforesaid upon the confession of the fact?

Resol. This is answered before to the next precedent Article.

10 Q. If a man be convicted for being drunk, tipling, and keeping an unlicensed Alehouse, or being licensed

licensed, for suffering others to remain tipling in his house, or for swearing or driving Cattell upon a Sunday contrary to the Statute in that case provided; whether the Justice of Peace, before whom he was convicted, or any other Justice of the Peace may discharge him of all or part of the Forfeiture or punishment appointed by the Statute?

Resol. The Justices have no such power of mitigation after conviction, where the Statute appoints the measure of the punishment.

11 Q. Whether a Constable may upon a warrant for carrying one to the house of correction for keeping an unlicensed Alehouse upon the second conviction break open the house wherein the party convicted is, to apprehend him?

Resol. This question is to be advised upon, it is put in generall terms and referred to be considered in the particular where it appeareth.

12 Q. If a woman unmarried be hired from week to week, or from half year to half year, in one parish, and there be gotten with child, and then goeth from thence unto another parish, where she is setled in service by the space of two or three moneths, and then discovered that she is with childe: The question is, whether she shall be setled in the Parish where she was begotten with child, or in the parish where she was last setled.

Resol. The place where such a woman was lawfully setled, is the direction in this case, not where she was begotten with childe.

13 Q. If a woman servant unmarried be begotten with child, and then goeth out of her Mistris service, before or after it is discovered that she is with child, and the reputed father be run away, or is not able to free the parish: whether the Master may be enforced to provide for her till she be delivered, and for a moneth after?

Resol. If the Master hath legally discharged his

house of such a servant, he is no more bound to provide for her than any other.

14 Q. In case a Parish consist part of ancient *Demeasne* and part of *Guildable*, an Assise is made for the relief of the maimed Souldiers, the Gaole, &c. according to the Statute of 24. *Elizabeth, cap.* 2. whether the tenants in ancient Demesne shall contribute with the Guildeable for the payment of the Assise?

Resol. The Statute doth not distinguish between the ancient Demeasne and the Guildable in these cases, *ubi lex non distinguit ibi nec nos distinguimus.*

15 Q. Whether an Indictment of forceable detainer be within the Statute of 1 *Jacobi, cap.* 5. and not to be removed by *Certiorari*, unless the party Indicted first finde sureties according to that Statute, and whether the party Indicted be to be bound in his absence to prosecute according to that Statute, and whither an Indictment of forcible entry, &c. found at a private Sessions be to be removed by *Certiorari* without sureties, according to that Statute?

Resol. This is fittest to be left unto the Court of Kings-bench, to whose Commission, and jurisdiction this is most proper.

16 Q. If one be convicted upon the Statute of 3. *Car. R. cap.* 13. for driving of Cattell on the Sunday through severall parishes; whether he shall forfeit 20 shillings to every of the said parishes; or one'y to one; if to one, then to which of them?

Resol. This Statute giveth the Forfeiture but of one 20 shillings for one Sabbath day. Although the driving of that day be through divers pa ishes. Therefore where the action is first attached, and the distress first taken, that parish shall have the benefit of the forfeiture, and not the other.

17 Q. If one who is under the age of 30 years, and brought up in husbandry, or a maid-servant, or brought up in any of the Arts or trades mentioned in the Statute of 5 *Elizab. c.* 4. and not enabled according

cording to that Statute, to live at his or her own hand, shall be warned by two Justices of the Peace to put him or her self in service by a day prescribed by them and shall not do the same accordingly, but shall after continue living at his or her own hand, what course shall be taken with such a person, and how punished?

Resol. Such persons being out of service, and not having visible meanes of their own, to maintain themselves without their labour, and refusing to serve as an hired servant by the yeer, may be bound over to the next Sessions or Assises, and to be of the good behaviour in the mean time, or may be sent to the house of correction.

18 Q. Whether the tax for the relief of the poor, upon the Statute of 43 *Elizabeth*, shall be made by ability or occupation of lands, or both, or whether the visible ability in the parish where he lives, or generall ability wheresoever, and whether his rent received within the parish where he lives shall be accompted visible ability, and whether he shall taxed of them onely and for any Rents received from other parishioners; and what shall be said visible ability?

Resol. The Land within each parish is to be taxed to the charges in the first place equally and indifferently, but there may be an addition for the personall visible ability of the Parishioner within that parish according to good discretion, wherein if there be any mistaking, the Sessions, &c. or the Justice must judge between them.

19 Q. Whether shops, salt-pits, sheds, profits of a Market, &c. be taxable to the poor as well as lands, Cole-mynes, &c. expressed in the Statute 43 *Elizabeth*?

Resol. All things which are reall, and a yeerly revenue, must be taxed to the poor.

20 Q. Whether the taxe for the County stock, Gaol, and house of Correction is to be made by the

Statute of 14 *Elizabeth*, *cap* 43. *Elizabeth*: by ability, and upon the Inhabitants of the parish onely, or upon them, or the occupiers of Lands, dwelling in that parish: or whether such as occupy lands in that parish, and dwell in another parish shall be taxed?

Resol. If the Statute in particular cases give no special direction, it is good discretion to go according to the rate of taxation for the poor: but when the Statutes themselves give directions follow that.

21 Q. Whether any taxes ought to be made for the charges that petty Constables and Borsholders are at in conveying rogues from parish to parish, and relieving of them, and how to be rated?

Resol. It is fit to relieve the Constable and Tything men, in such sort as it hath been used in the severall places where they live.

22 Q. Whether a Justice of Peace may discharge a servant being with child from her service, allowing that as a reasonable cause that she is thereby made unable to do the service which otherwise she might have done, and if he may discharge her, whether that parish shall provide for her, till her delivery, if she cannot provide for her self; and so also if her time be expired before her delivery, who shall provide for her after her time ended?

Resol. If a woman being with childe procure her self to be retained with a master who knoweth nothing thereof, is a good cause to discharge her from his service. And if she be begotten with childe during her service, it is all one, but the Master in neither case must turn away such a servant of his own authority. But if her term be ended, or she lawfully discharged, the Master is not bound to provide for her, but it is a misfortune faln upon the parish, which they must bear, as in other cases of casuall impotency.

23 Q. Whether being delivered of a bastard child in one Parish, and goeth into another with her child; and becomes vagrant, and so is sent to the place of her

her birth: her bastard child being under the age of seven years, shall be setled with the mother, and there maintained if the mother be not able, nor the reputed Father known, found, or whether it shall be sent to the place of its birth, or being setled with the mother, whether the Parish where it was born, shall be ordered by the two next Justices to pay a weekly summe towards the maintenance of it?

Resol. The Bastard childe must be placed with the mother, so long as it is within the quality or condition of a Nurse childe, which shall be, till seven yeers of age; and then it is fit to be sent to the place of its birth to be provided for, the mother or reputed father, not being able. And the Parish where the child is born shall not be forced to contribute to the charge, as long as the Mother lives, and the childe be under seven yeer old.

24 Q. A man with his wife and children takes an house in one parish, for a yeer: and before the end of his term is unlawfully put out of possession, and after taketh part of an house as an inmate in another parish, from whence he is also put out, and then not being able to get any dwelling, they come to lye in a Barn in a third parish where the husband falleth sick, and the Wife is delivered of another childe, where ought these to be setled?

Resol. If a man or woman having house or habitation in one parish be thrust-out, this is an illegall unsetling which the Law forbiddeth, for none must be enforced to turn vagrant, and such one must be returned to the place where he or she was last lawfully setled, and the childe also born in the time of this distraction.

25 Q. Whether an apprentice put out by the Churchwardens, &c. according to the Statute to a Master in another parish, if his Master dye and leave no Executor or Administrator fit to keep an apprentice or able to place him: He shall be provided for

in the parish where he was apprentice or shall be sent back to the parish from whence he was put out?

Resol. Servants and apprentices are by law setled in that Parish, and if they become impotent there, the parish must abide the adventure after their term or time of service be lawfully ended.

26 Q. What is accompted a lawfull setling in a parish, and what not?

Resol. This is too generall a question to receive a perfect answer to every particular case which may happen: but generally this is to be observed, that the law unsetleth none who are lawfully setled; nor permits it to be done by practice, or compulsion, and every one who is setled is a native housholder, sojourner, an apprentice or servant for a moneth at the least, without a just complaint made to remove him or her, shall be held to be setled.

27 Q. A rogue is taken at C. and will not confess the place of his birth: neither doth it appear otherwise but that he confesseth the last place of his habitation to be at S. hereupon he is whipped and sent to S. at his coming to S. the place of his birth is there known by some to be at W. and thereupon the rogue confesseth it to be so: whether he might without any new vagrancy be sent to W?

Resol. In this case it is fit to send such a rogue to the place of his birth: for this is but a mistaking and no legall setling.

28 Q. If an indictment be preferred to the grand Jury of the quarter Sessions of the peace against one for murder, manslaughter, for robbery, felony, or Pettylarceny, and ignoramus found thereupon, whether the said Sessions may deliver the party by Proclamation or not?

Resol. Not by Proclamation at all, but for petty Larcenies, and other petty Fellonies, in discretion the Gaol may be delivered of them.

29 Q. If a Constable be chosen and refuseth to take

take his Oath, what shall be done, and whether a Constable may make a depury, and by what means?

Resol. The refusall or neglect to take Oath in such a case is a contempt worthy of punishment, and thereupon to fine, and imprison him, and the making of a deputy is rather by toleration, then by law.

30 Q. If a Constable dye or remove out of the Parish where, &c. how is his place to be supplyed?

Resol. By the Lord of the Leete, if that time fall neer, otherwise by the Sessions, but if that be too far off, then by the next Justices.

31 Q. If a poor weak man be chosen Constable or Tythingman, & be unfit for the same place how may he be removed, and a fit man sworn in his room?

Resol. The Justices of Peace must help this, and if the Lord of the Leete, have power to choose a Constable or Tythingman and perform so ill, it is a just cause to seize his liberty.

32 Q. If a Nurse childe, a Scholler at a Gramschoole, or in the University prove to be impotent by Sickness, lameness, lunacy, or discovery of Ideocy, &c. how such persons shall be disposed?

Resol. A Nurse-child, or a Scholler at the Grammar-schoole, or at the University, or persons sent to the Common gaol, Hospitall, or houses of Correction, are not to be esteemed as persons to be setled there, more then Travellers in their Innes, but their setling is where their Parents are setled; and Children born in common Gaols, and houses of correction, their parents being prisoners, are to be maintained at the charge of the County.

33 Q. What proportion Parsonages, or Tithes shall bear to the taxation of the poor of the parish?

Resol. The Parson or Vicar presentative, shall according to the reasonable value of his Parsonage, having consideration to the just deductions.

34 Q. Whether for placing the poor of the parish, not to be removed by consent of the parish, these

poor

poor men may not be placed as Inmates for a time?

Resol. They may by expreſs words of the Statute of the 43. of *Elizabeth.*

35 Q. If a pariſhioner or owner within a pariſh do bring into the pariſh without the conſent of the pariſh, a ſtranger of another pariſh, which is, or apparantly is like to be burthenſome unto the pariſh, how they may eaſe themſelves?

Resol. By taking ſuch a one to the charge of the rates of the poor, not onely having reſpect to his ability or the land he occupies, but according to the damnage and danger he bringeth to the pariſh by his folly.

36 Q. For warding in the day-time for apprehending of Rogues, whether the Conſtable may not enlarge it to a farther time?

Resol. Warding in the day-time is of great uſe, and muſt be left to the diſcretion of the Conſtables on direction of the Juſtices to vary according to the occaſion.

37 Q. Whether Alehouſes ought to be allowed onely in thorowfare Towns, and others in other places to be reſtrained onely to ſell to the poor out of doors.

Resol. The Juſtices ſhall do very well to allow none but in places very fit for their ſcituation and uſes, and to moderate the number.

38. Q. A man for his quality otherwiſe fit to be a Conſtable, or of other Office of that nature, procures himſelf to be the Kings ſervant extraordinary, and by that means would excuſe himſelf to ſerve in the Country?

Resol. A ſervant extraordinary may well perform his ordinary ſervice in the Country according to his quality.

The

The Justices opinion touching the Commissions by which the Justices sit at Newgate.

THE Justices at Newgate sit by vertue of two Commissions (*viz*) Gaol delivery, and Oyer and determiner.

By the Commission of Gaol delivery they may try all prisoners in the Gaol or by Bayle, or such as be indicted will render themselves, generally for all Felonies: and also for such other offences as are particularly assigned to them by Statute.

The Statute of 4 *Elizabeth*, 3. *cap.* 2. doth give them power to receive Indictments against Prisoners or such as are upon bayle, and to proceed to try the same (*viz*) Indictments taken before the Justices of the Peace, and by equity thereof all Indictments before coroners, 3. *Mar. Bro. Commission. omnium.* 24. saith, That the Commission is *ad deliberand. Gaol. de prison. in eisdem existen.* But they cannot take Indictments as Justices of Gaol delivery, but being Justices of the peace, they may take Indictments against prisoners, but not against them that be at large: for as much as power is given them, consequently they must have means to do so, which is by Indictments. Id *quærend.*

Howsoever it is cleer, that they may enquire of many offences and take Indictments in such cases where power by the Satute is given to the Justices of Gaol delivery, in such cases where they have authority by Law or Statute there the title of Indictments is, that *Ad gaolam deliberationem tent.* before the Commissioners of Gaol delivery, *I. S.* was indicted, and the record must be made up so.

And whereas by the Statute of 4. *Eliza.* 3. *cap.* 2. Indictments taken before Justices of Peace or Coroners,

roners, or any other against any Prisoners, then the entry of the Indictments is returned taken, *Memorand. quod ad generalem Sessionem tent.* before *A. B. C.* Justices *ad pacem in Com. Middlesex* or *London*, *I. S.* was indicted, and then tryed before Justices of Gaol delivery, and by vertue of the said Statute, Indictments taken before Justices of the Peace of *London* or *Middlesex*, are tryed before the Justices of Gaol delivery.

The Commissioners of Oyer and Terminer is *Ad triand. inquirend. audiend. & determinand.* They may enquire of all offences mentioned in the Commission, albeit the offendors be at large, but they cannot try prisoners upon Indictments taken before any other then themselves, as the Justices of Gaol delivery may by the aforesaid Statute, unless there be a speciall Commission made, as it was in the case of the Earl of *Leicester*, mentioned in *Plow. Com.* for the ordinary Commission of Oyer and terminer is *ad inquirend. audiend. & determinand.* therefore they cannot determine of things unless they made enquiry first, and on the other side also the Justices of Gaol delivery may try Indictments taken before Justices of the Peace, yet if one indicted before Commissioners of Oyer and Terminer, the Justices of Gaol delivery cannot try the same, because the Record of the Commission of Oyer and Terminer are to be returned in the Kings Bench, 44 E. 3. 31.

The Commission and the Records of the proceedings before the Justices of Goal delivery, are to be returned to the Custos Rotulor. of the County, when the same persons are Justices of Gaol delivery, and of Oyer and Terminer, they may sit the same day and place, and enquire by the same Jury, but the entry of the Records must be severall, according as the Indictment is.

At the Assises in the Countrey, the Justices have their severall power as the Justices of Gaol delivery,

Oyer

Oyer and Terminer, and Justices of Peace.

But when the Records are made up, they must be according to the power they made election to proceed upon.

This is the regular and legall course. But the Clerks of the Assises promiscuously make entry thereof, But if a Writ of Errour be brought, they must certifie according to Law, or else it will be erronious, and so upon a *Certiorari*.

The Sessions of *London* may be begun at the Guild-hall, and then adjourned to Newgate, If some Indictments be at Guild-hall, then those must be so certified: if others at Newgate; then the adjournment must be mentioned, and that the Indictment was then taken.

Note that the tryall of Indictments taken before Justices of the peace of *London*, cannot be tryed at Newgate, as in nature of a tryall before Justices of the peace at *London*, for many of the Commissioners for Gaol delivery, are not Justices of the peace for London, but in such cases the tryall must be before the Justices of Gaol delivery: as upon Indictments taken before the Justices of the peace of London; as in the case of Indictments taken before the Justices of the peace of Middlesex.

But if Indictments at Newgate be originally taken before them, as Justices of Gaol delivery, then it is inquirable how the Jury sworn, and impannelled to enquire at the Sessions of the Peace for London, or Middlesex, do serve to present Indictments before the Justices of Gaol delivery at Newgate, unless the custome and usage will warrant, the two several Juries, sworn at the Sessions of the peace for *London*, or *Middlesex*, are also by the same Oath and impannelling to serve for the grand Jury for the Commission of Gaol delivery, and Oyer, and Terminer.

Upon conference with Mr. *Keeling*, and the Clerks for

for Newgate of *London*, and *Middlesex*, and the Clerks of Assises, and view of the severall Entries, a more mature and certain resolution may be given, this being in haste, and without such considerations as were requisite.

FINIS.

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